Energy Cost Order **2011-002**

ERCB

Petro-Canada Sullivan Field

Applications for Eleven Well Licences, One Multiwell Gas Battery Licence, and Two Pipeline Licences Sullivan Field

Cost Awards

May 24, 2011

Energy Resources Conservation Board

ENERGY RESOURCES CONSERVATION BOARD
Energy Cost Order 2011-002: Applications for Eleven Well Licences, One Multiwell Gas Battery Licence, and Two Pipeline Licences, Sullivan Field

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Appendix A – Directive 031A - Guidelines for Energy Cost Claims (June 2001)

Appendix B – Summary of Costs Claimed and Awarded

ENERGY RESOURCES CONSERVATION BOARD
Calgary Alberta

	Energy Cost Order 2011-002
	Applications No. 1517168,
PETRO-CANADA	**1517170, 1574414, 1574366,**
APPLICATIONS FOR ELEVEN WELL LICENCES,	**1574409, 1517148, 1520922,**
ONE MULTIWELL GAS BATTERY LICENCE,	**1517151, 1520923, 1517160,**
AND TWO PIPELINE LICENCES	**1517176, 1520388, and 1513051**
SULLIVAN FIELD	**Cost Application No. 1569214**

1 INTRODUCTION

1.1 Applications

Petro-Canada submitted eleven gas well applications, in accordance with Section 2.020 of the *Oil and Gas Conservation Regulations* (*OGCR*), one multiwell gas battery application, in accordance with Section 7.001 of the *OGCR*, and a pipeline application, in accordance with Part 4 of the *Pipeline Act* for approval to construct and operate two pipelines, one for the purpose of transporting sour gas and the other to transport fuel gas.

Applications No. 1517168 and 1517170 were for licences to drill two directional gas wells from an existing surface location in Legal Subdivision (LSD) 6, Section 15, Township 18, Range 5, West of the 5th Meridian, to projected bottomhole locations in LSD 12-11-18-5W5M and LSD 4-22-18-5W5M.

Application No. 1574414 was for a licence to drill one directional gas well from a surface location in LSD 16-35-17-5W5M[1] to a projected bottomhole location in LSD 2-11-18-5W5M.

Applications No. 1574366 and 1574409 were for licences to drill two directional wells from a surface location in LSD 1-2-18-5W5M to projected bottomhole locations in LSD 11-2-18-5W5M and LSD 12-36-17-5W5M.

Applications No. 1517148 and 1520922 were for licences to drill two directional wells from an existing surface location in LSD 10-25-17-5W5M to projected bottomhole locations in LSD 2-25-17-5W5M and LSD 7-25-17-5W5M.

Application No. 1517151 was for a licence to drill one directional gas well from a surface location in LSD 2-19-17-4W5M to a projected bottomhole location in LSD 12-18-17-4W5M.

Applications No. 1520923 and 1517160 were for licences to drill two directional gas wells from a surface location in LSD 3-19-17-4W5M to projected bottomhole locations in LSD 5-19-17-4W5M and LSD 16-24-17-5W5M.

[1] This surface location would be the same as for Applications No. 1574366 and 1574409, as the surface location is bisected by the LSD boundary.

Application No. 1517176 was for a licence to drill one directional gas well from an existing surface location in LSD 7-7-17-4W5M to a projected bottomhole location in LSD 7-6-17-4W5M.

The purpose of all the above-mentioned wells is to obtain gas production from the Rundle Group. The maximum hydrogen sulphide (H_2S) concentration would be about 145.8 moles per kilomole (mol/kmol) (14.58 per cent), and the cumulative drilling H_2S release rate would be 0.59 cubic metres per second (m^3/s).

Application No. 1520388 was for approval to construct and operate a multiwell gas battery in LSD 11-8-17-4W5M. The facility would dehydrate and compress sour gas with a maximum H_2S content of 150 mol/kmol (15.0 per cent) and would have a maximum continuous sulphur emission rate of 0.02 tonnes per day and a corresponding emergency planning zone (EPZ) of 5.47 kilometres (km).

Application No. 1513051 was for approval to construct and operate two pipelines, one for the purpose of transporting sour gas and the other to transport fuel gas.

The sour gas pipeline would consist of a gathering system to transport gas from five well pads proposed at LSDs 1-2-18-5W5M, 10-25-17-5W5M, 3-19-17-4W5M, 7-7-17-4W5M, and 8-7-17-4W5M to a proposed multiwell gas battery at LSD 11-8-17-4W5M. From the battery, a trunk line would transport the dehydrated and compressed gas to a tie-in point at LSD 2-22-14-4W5M. From this tie-in point, the gas would be transported by Devon Canada via an existing pipeline to the Devon-operated Coleman Gas Plant. The length of the proposed gathering system and the trunk line would be about 55.46 km, and the outside diameter (OD) would range from 88.9 millimetres (mm) to 273.1 mm. The proposed gathering system and the trunk line would transport sour gas with a maximum H_2S concentration of 150 mol/kmol (15.0 per cent). The maximum calculated EPZ associated with the proposed pipeline would be 7.23 km.

The proposed fuel gas pipeline would be placed in the same ditch as the trunk line and gathering lines. It would tie into an existing Petro-Canada fuel gas line at LSD 2-22-14-4W5M and transport sweet gas to the five well pads. It would be about 55.46 km in length, with ODs ranging from 60.3 to 88.9 mm.

These applications collectively will be referred to hereinafter as the Project.

1.2 Background

The Energy Resources Conservation Board (ERCB/Board) held a prehearing meeting in Longview, Alberta, on March 18, 2008, before Board Members J. D. Dilay, P.Eng. (Presiding Member), G. J. Miller, and B. T. McManus, Q.C., Vice-Chairman. The Board released its ruling on the prehearing meeting as *Decision 2008-029: Petro-Canada, Applications for Wells and Associated Pipeline and Facility Licences, Sullivan Field* (*Decision 2008-029*) on April 16, 2008.

The Board held a public hearing in High River, Alberta, which commenced on November 12, 2008, and concluded on January 30, 2009. The hearing was held before Board Members J. D. Dilay, P.Eng. (Presiding Member), J. D. Ebbels, and B. T. McManus, Q.C., Vice-Chairman.

On February 25, 2010, J. D. Ebbels passed away. J. D. Dilay and B. T. McManus constitute a quorum and their deliberations and decision are set out in this cost order.

The Board issued its decision on the applications via *Decision 2010-022 + Erratum, Petro-Canada Applications for Eleven Well Licences, One Multiwell Gas Battery Licence, and Two Pipeline Licences, Sullivan Field* (Released: June 8, 2010; Erratum released: September 2, 2010), (*Decision 2010-022*).

Following the close of the hearing, but prior to *Decision 2010-022* being released, Petro-Canada announced it had merged with Suncor Energy Inc. in March, 2009, and that they would operate corporately under the Suncor name. The Board notes that the acquisition took place after the close of the public hearing of the applications. Therefore, for ease of reference, this decision report refers to Petro-Canada as the applicant. All decisions herein are binding on Suncor Energy Inc.

2 INTERVENERS

2.1 Parties Listed in *Decision 2008-029* and *Decision 2010-022*

Interveners at the hearing included parties listed at Appendix 2, page 13 of *Decision 2008-029* and Appendix 3, pages 149 and 150 of *Decision 2010-022*. Of those, the Big Loop Group, Royal Adderson and Bar AD Ranch, the Pekisko Group, and the Stoney Nakoda Nation (the Interveners) participated in the proceeding and at the hearing of the applications. The Board in *Decision 2008-029*, at pages 6 and 7, stated that, among others, these Interveners had interests in land that qualified them to be able to apply for local intervener costs. The claims of these Interveners are the subject of this Cost Order.

2.2 Intervener Groups

The Big Loop Group (Big Loop Group) — comprising the MD of Ranchlands No. 66, Big Loop Cattle Co. Ltd., EP Ranch Ltd., High Lonesome Ranch Limited, Pekisko Creek Ranch & Cattle Co. Ltd., and Alec C. Burke and Family — expressed concern regarding the routing of Petro-Canada's proposed trunk line through what it perceived to be an undisturbed, pristine wilderness area.

Royal Adderson and Bar AD Ranch (Adderson) held the position that the proximity of the proposed wells, central facility, and associated access roads to the Bar AD Ranch would negatively impact both ranching operations and the quality of life of the Adderson family.

The Pekisko Group (Pekisko Group) — comprising the Willow Creek Stock Association (Willow Creek Grazing Allotment), the Timber Creek Grazing Allotment (Rocking P. Ranch, TL Cattle Co., Mapiatow Ranch), Anchor P. Cattle Co., Home Place Ranch, Mt. Sentinel Ranch, Bluebird Valley Ranch, D Ranch, Spruce Grazing Co-op, Kim Cochlan, Larry Dayment Ranch, Phil Rowland Ranch, and Bow Vista Farms, argued that the proposed project constituted unwarranted and damaging industrial intrusion into the Southern Foothills area.

The Stoney Nakoda Nation — comprising members of the Bearspaw First Nation, the Chiniki First Nation, the Wesley First Nation, the Stoney Nakoda Nation, and the community of Eden

Valley located on the Eden Valley Indian Reserve No. 216 (Eden Valley Reserve) – argued that the proposed project was contrary to the spirit of Treaty No. 7 and would negatively impact aboriginal and treaty rights. It submitted that if impacts could not be mitigated, the project would create unnecessary health risks to the residents of the Eden Valley Reserve, and that more cost-effective alternative routes should be explored.

3 INTERVENERS' COST CLAIMS

3.1 Advance Funding Awards

On April 22, 2008, Adderson applied to the Board for an award of advance funding in the amount of $10,629.51. Petro-Canada submitted its comments on Adderson's claim for advance funding on May 8, 2009. Adderson responded to Petro-Canada's comments on May 14, 2008. The Board then made an award of advance funding to Adderson in the amount of $6,348.43 on June 17, 2008.

On September 24, 2008, the Stoney Nakoda Nation applied to the Board for an award of advance funding in the amount of $51,146.41. Petro-Canada submitted its comments on the advance funding claim on October 15, 2008, and the Stoney Nakoda Nation replied to those on October 21, 2008. The Board then made an award of advance funding to the Stoney Nakoda Nation in the amount of $9,300.00 on October 24, 2008.

Neither the Big Loop Group nor the Pekisko Group applied for awards of advance funding from the Board prior to the hearing commencing.

3.2 Cost Claims

On September 8, 2009, the Big Loop Group filed a costs claim in the amount of $362,370.81. On September 24, 2009, Petro-Canada submitted comments on that costs claim. On October 9, 2009, the Big Loop Group submitted a response to Petro-Canada's comments.

On July 30, 2009, Adderson filed a costs claim in the amount of $267,469.03. On August 12, 2009, Petro-Canada submitted comments to Adderson's costs claim. On August 28, 2009, Adderson submitted a response to Petro-Canada's comments.

On September 8, 2009, the Pekisko Group filed a costs claim in the amount of $193,923.61. On September 24, 2009, Petro-Canada submitted comments on that costs claim. On October 9, 2009, the Pekisko Group submitted a response to Petro-Canada's comments, and on October 16, 2009, provided clarification regarding the fees of Dr. Richard Kennedy.

On September 8, 2009, the Stoney Nakoda Nation filed a costs claim in the amount of $457,817.12. On September 24, 2009, Petro-Canada submitted comments to the Stoney Nakoda Nation's costs claim. On October 8, 2009, the Stoney Nakoda Nation submitted a response to Petro-Canada's comments.

3.3 Payments Made by Petro-Canada

On November 20, 2009, following the close of the hearing and prior to *Decision 2010-022* being released, Adderson requested that the Board exercise its discretion and order Petro-Canada to make advance payment of a portion of the costs it had claimed. Adderson made this request due to, among other things, the lengthy and unique nature of the proceeding and the fact that counsel for Interveners had been working unpaid at that point in time for longer than could have been reasonably anticipated at the outset of the proceedings.

On December 15, 2009, the Board exercised its discretion and granted the request of Adderson for interim funding by virtue of *Petro-Canada Oil and Gas, Sullivan Field, Interim Cost Awards, Energy Cost Order 2009-012* (*ECO 2009-012*). In *ECO 2009-012*, the Board awarded Adderson $65,000.00 in interim funding.

Following the issuance of *ECO 2009-012*, both the Stoney Nakoda Nation and the Big Loop Group requested on December 17 and 18, 2009, respectively, that the Board award interim costs in their favour in a manner consistent with the Board's decision in *ECO 2009-012*.

In January 2010, and without further order from the Board, Petro-Canada voluntarily made the following interim payments to the Interveners:

- $90,592.70 to the Big Loop Group;
- $48,480.90 to the Pekisko Group; and
- $114,454.28 to the Stoney Nakoda Nation.

3.4 Supplemental Cost Claims

On September 22, 2009, prior to Decision 2010-022 being released, the Board by way of letter sought supplemental answers to questions from Petro-Canada and gave the Interveners the opportunity to respond in written form to this additional information. As a result of the further work carried out by the Interveners in this regard, each thereafter filed supplemental cost claims with the Board.

On December 17, 2009, Big Loop filed a supplemental costs claim in the amount of $22 107.75. In a letter dated December 18, 2009, it requested that the Board award it interim costs as claimed in its supplemental costs claim in a manner consistent with its decision in *ECO 2009-012*. Petro-Canada commented on the Big Loop's supplemental costs claim on April 8, 2010. On April 19, 2010, Big Loop provided its response to Petro-Canada's comments. Petro-Canada's final response to Big Loop was dated April 27, 2010.

On February 8, 2010, Adderson filed a supplemental costs claim in the amount of $6,032.32. On April 8, 2010 Petro-Canada submitted comments on Adderson's supplemental costs claim. On July 26, 2010, counsel for Adderson advised the Board he would not be responding to the April 8, 2010 submission of Petro-Canada.

On March 24, 2010, Pekisko Group filed its supplemental costs claim in the amount of $9,977.84. Petro-Canada responded to the supplemental costs claim of Pekisko Group on April 8, 2010. On July 27, 2010 counsel for Pekisko Group wrote the Board to advise there would not be a response to the April 8, 2010 comments of Petro-Canada.

On December 22, 2009, the Stoney Nakoda Nation filed a supplemental costs claim in the amount of $21,405.11. On April 8, 2010 Petro-Canada submitted comments on the supplemental costs claim of the Stoney Nakoda Nation. On May 5, 2010, the Stoney Nakoda Nation responded to the submission of Petro-Canada.

4 VIEWS OF THE BOARD—AUTHORITY TO AWARD COSTS

In determining local intervener costs, the Board is guided by its enabling legislation, in particular by Section 28 of the *Energy Resources Conservation Act*, which reads as follows:

> 28(1) In this section, "local intervener" means a person or a group or association of persons who, in the opinion of the Board,
>
> (a) has an interest in, or
>
> (b) is in actual occupation of or is entitled to occupy
>
> land that is or may be directly and adversely affected by a decision of the Board in or as a result of a proceeding before it, but, unless otherwise authorized by the Board, does not include a person or group or association of persons whose business includes the trading in or transportation or recovery of any energy resource.

When assessing costs, the Board refers to Part 5 of the *Energy Resources Conservation Board Rules of Practice* and Appendix D: Scale of Costs in ERCB *Directive 031: Guidelines for Energy Proceeding Cost Claims*.

Subsection 57(1) of the *Rules of Practice* states:

> 57(1) The Board may award costs, in accordance with the scale of costs, to a participant if the Board is of the opinion that
>
> (a) the costs are reasonable and directly and necessarily related to the proceeding, and
>
> (b) the participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Board.

In addition to the legislative provisions that govern and apply when the Board is considering awards for costs, the Board is also guided by the common law and the applicable legal principles regarding a tribunal's jurisdiction to award costs. The recent decision of the Supreme Court of Canada in *Smith* v. *Alliance Pipeline Ltd.* (2011 SCC 7) dealt with, among other things, the jurisdiction of tribunals (in that case the National Energy Board's Pipeline Arbitration Committee) to award costs. The Court found that awards for costs are invariably fact-sensitive and generally discretionary, attracting a standard of review of reasonableness in accordance with the categories contained in *Dunsmuir* v. *New Brunswick* (2008 SCC 9). In *Smith* v. *Alliance Pipeline Ltd.*, the Court found that the statutory language of section 99(1) of the *National Energy Board Act* (*NEBA*) reflected a legislative intention to vest in the Pipeline Arbitration Committee the sole responsibility for determining the nature and amount of costs to be awarded. Section 99(1) of *NEBA* contains language similar to that of subsection 57(1)(a) of the *Rules of Practice*. It is clear from the applicable legislative provisions, as well as the common law, that the Board has considerable discretion when making cost awards which stem from proceedings which have taken place before it.

4.1 Directive 031A: Guidelines for Energy Proceeding Cost Claims: Applicable Version and Costs Incurred Prior to Issuance of the Notice of Prehearing Meeting

The Board has considered the various submissions of the Interveners and Petro-Canada regarding which version of *Directive 031: Guidelines for Energy Proceeding Cost Claims* should apply to the cost claims and supplemental cost claims of the Interveners.

The Board finds that as these proceedings were commenced by the Notice of Hearing issued on May 21, 2008, the applicable edition of *Directive 031: Guidelines for Energy Proceeding Cost Claims* for the purposes of this Cost Order is the edition that was in force from the period August 1, 2001 to April 1, 2009. This now obsolete version of the Directive has been attached to this cost order as **Attachment A** for ease of reference, and will be referred to throughout as *Directive 031A (August 2001)*.

The Board also finds that pursuant to section 28 of the *ERCA*, section 55 of the *Rules of Practice*, and section 7 of *Directive 031A (August 2001)*, costs claimed by the Interveners following the issuance of the Notice of Prehearing Meeting will be considered by the Board. Claims for costs which precede the issuance of the Notice of Prehearing Meeting in this matter will not be considered, as there was no certainty at that time that a hearing indeed would be held.

4.2 Consideration of Interveners' Cost Claims and Supplemental Cost Claims

Given the lengthy history, as set out above, of the various cost claims and advance or interim payments already made in this matter, the following sections will address the cost claims and supplemental cost claims submitted by each of the Interveners. The claims of each Intervener as well as any amounts already paid to that Intervener will be considered, and amounts already advanced to an Intervener will be subtracted from the final amounts awarded to that Intervener by the Board.

5 BIG LOOP GROUP

On September 8, 2009, the Big Loop Group submitted a costs claim for legal fees in the amount of $232,948.50, expert fees in the amount of $66,510.00, expenses in the amount of $46,504.06 and GST in the amount of $16,408.25, for a total costs claim of $362,370.81.

5.1 Views of Petro-Canada

Petro-Canada responded to the Big Loop Group's cost claim by correspondence dated September 24, 2009.

It submitted that since counsel for the Big Loop Group represented a total of six interested parties and only one of them (Big Loop Cattle Co. Ltd.) was granted standing, the Big Loop Group should receive only one-sixth of whatever gross amount of costs the Board saw fit to award it.

With regard to legal fees and expenses, Petro-Canada submitted that additional materials were needed with respect to the legal accounts that formed the claim, as well as counsel travel time. It submitted the amount claimed for legal fees appeared to be excessive at 1,162.7 hours when

compared to the 684.6 hours claimed by counsel for Adderson. It suggested a reduction of one-third of the legal costs claimed by the Big Loop Group in the amount of $79,848.17. It stated no breakdown was provided for it to determine which claimed hours related to the hearing and which related to Court of Appeal applications, which should not be recoverable.

Petro-Canada was of the view that the hourly rate claimed by Mr. Brock Carscallen was excessive and should be reduced by half for the hours claimed when he was carrying out administrative or monitoring functions.

It also submitted that Mr. Stanley Carscallen, Q.C. displayed a pattern of disregard for the Board's rules, processes and directions, and that this pattern commenced with his filing of an intervention that contained very little information, and then continued throughout the hearing. Petro-Canada noted that this matter was spoken to by the Board in a letter dated January 28, 2009. It submitted that much of his cross-examination at the hearing was excessive, repetitive and argumentative, unnecessarily prolonging the hearing as a result. Petro-Canada suggested that the Board should significantly adjust the amount claimed for the Big Loop Group's legal fees if counsel are to be encouraged to abide by the Board's rules and directions.

Petro-Canada noted that no explanation was given for the costs claimed for a paralegal as opposed to a legal assistant and therefore those costs should be disallowed entirely. It noted there was no description of a number of the professional fees claimed for several individuals from Carscallen Leitch LLP or an explanation as to why they were recoverable, so the amounts should be disallowed. It submitted there should be a reduction in these costs of $4,811.64.

With regard to the fees and expenses of Mr. Charles Mamo and Mr. Timothy Kaminski, Petro-Canada submitted that the evidence they provided was of very limited value and the hours they incurred for preparation appeared to be excessive. No breakdown of the hours was provided so it was unclear what activities were reasonable and whether or not travel charges were included in the costs claim. Petro-Canada suggested a $2,500.00 reduction to these costs to account for the lack of a breakdown of fees.

With regard to the fees and expenses of Ms. Kristi Beunder, Petro-Canada submitted that her evidence was of no value, as there was no evidence that it was possible to route the pipeline as she had suggested. It submitted the claim for her fees and expenses should be denied entirely, resulting in a reduction of $5,124.00.

With regard to the fees and expenses of Mr. David Hermanson, Petro-Canada stated that the Big Loop Group's claim of $38,902.50 for his professional fees, as well as disbursements of $35,591.61, was excessive. No breakdown was provided for Mr. Hermanson's professional fees or disbursements so it was unable to determine what the fees and disbursements were incurred for, and whether or not they were reasonable. Petro-Canada submitted that the report prepared by Mr. Hermanson was based on the pipeline routing provided by Ms. Beunder, and since her routing was flawed, his evidence was of very limited value to the Board's decision. It submitted that the claim for Mr. Hermanson's costs be denied entirely.

With regard to the fees and expenses of Ms. Cheryl Bradley, Petro-Canada submitted that her evidence was of limited value as she had not been provided with all of the relevant material, she had not provided a breakdown of her claim, and her travel time was charged at $50.00 per hour

when it should have been $35.00 per hour. It submitted that the claim for her fees should be reduced by $1,000.00.

With regard to the fees and expenses of Mr. Lorne Fitch, Petro-Canada stated that no breakdown of time was provided for his account and it was unable to determine whether the claimed time was appropriate. It submitted his evidence regarding fish was a duplication of the material presented by Mr. David Mayhood, and although he purported to give evidence on grizzly bears, it was not his area of expertise. Petro-Canada submitted that his account should be reduced by half, for a reduction of $4,225.00.

With regard to the fees and expenses of Mr. David Mayhood, Petro-Canada took no issue with the amounts claimed.

5.2 Views of the Big Loop Group

The Big Loop Group stated in its October 9, 2009 response to Petro-Canada's comments on its costs claim that the Big Loop Group was comprised of six parties: Big Loop Cattle Co. Ltd., Pekisko Creek Ranch & Cattle Co. Ltd., Alec C. Burke and Family, Municipal District of Ranchlands No. 66, EP Ranch Limited and High Lonesome Ranch Limited. In *Decision 2008-029*, the Board granted local intervener status to Big Loop Cattle Co. Ltd. and Alec C. Burke and Family. Ultimately, EP Ranch Ltd. and Lonesome Ranch Limited were not granted intervener status but were authorized as discretionary participants in the hearing. The Big Loop Group submitted that the group included the Municipality, three local interveners and two discretionary participants. It submitted if the Board were to reduce the costs claim as suggested by Petro-Canada, the Board would thereby create an incentive for local interveners in future proceedings not to consider the creation of groups that include discretionary participants or municipalities.

With regard to legal fees and expenses, the Big Loop Group indicated they had now provided the requested backup along with their response to the comments of Petro-Canada, including time dockets for hours incurred by counsel for the Big Loop Group, as well as for time spent on travel to and from the hearing.

The Big Loop Group submitted that considerable effort was expended in communicating with other Interveners and their counsel to organize into compatible groups, consistent with the thrust of the respective interventions and to avoid duplication. It submitted that the claims for time spent prior to the issuance of the formal Notice of Hearing were reasonable and directly and necessarily related to the intervention of their various members.

The Big Loop Group was of the view that, due to the length and scope of the proceeding, the legal time spent in relation to the intervention was reasonable and in line with the scope of the proceeding, and should be awarded in full. It submitted that there were a limited number of pre-hearing costs claimed and that no time was claimed for time spent on Court of Appeal applications.

It noted that Mr. B. Carscallen conducted important legal work that would have had to be completed by more senior counsel, resulting in a higher hourly rate, and therefore there was no justification for reducing the hours he claimed.

The Big Loop Group submitted that its October 14, 2008 submission was in substantial compliance with Rule 24 of the *Energy Resources Conservation Board's Rules of Practice* (Rules of Practice), and that it filed a supplemental submission prior to the start of the hearing on November 10, 2008, which would not justify a reduction to the costs claimed.

With regard to the Board's letter of January 28, 2009, the Big Loop Group submitted that it should not be penalized for costs for legal services due to Petro-Canada presenting the "surprise concept of impossibility of HDD drilling as an after-thought in its evidence."

The Big Loop Group submitted that its claims for work completed by paralegals were justified, as their work was technical and required expertise beyond that of a legal assistant. It further submitted that the time claimed for four second year law students at $65/hour, who looked up a number of the case authorities cited in the Big Loop Group's final written argument, was reasonable. It also noted that Mr. B. Carscallen included half of his travel time in his claim and that Mr. S. Carscallen did not record any travel time.

With regard to the fees and expenses of Mr. Mamo and Mr. Kaminski, the Big Loop Group submitted the claim for their fees and expenses was reasonable and should be awarded in full.

Regarding the evidence provided by Ms. Beunder, the Big Loop Group submitted that the routing of the trunkline was likely the most important issue in this proceeding, and her testimony contributed significantly to the Board's understanding of the issue.

With regard to the fees and expenses claimed for Mr. Hermanson, the Big Loop Group submitted that the work he completed was extremely complex, and that he had been working on a pipeline project in Saskatchewan at the same time he was conducting research on the area in relation to the application. It stated that Mr. Hermanson was forced to hire the help of Mustang Management (Michael J. Wagner) and Janice Pipeline Construction Inc. (James P. Smyth) to assist him with the field work required to complete his analysis and report. The Big Loop Group was of the view that Mr. Hermanson's hiring of help in compiling his evidence allowed him to provide information and useful testimony relating to the viability of alternative routes, and that his fees and disbursements were justifiable and reasonable and should be awarded in their entirety.

With regard to the fees claimed by Ms. Bradley, the Big Loop Group noted that she is a highly regarded environmental scientist who provided detailed and relevant evidence in her testimony and report. It submitted she was very valuable not only to the Big Loop Group but to the Board as well and that her fees were reasonable and should be awarded in full.

With regard to the fees and expenses claimed by Mr. Fitch, the Big Loop Group noted that he is a qualified professional wildlife and fisheries biologist who delivered his report and testimony on important watershed issues and also spoke to public policy watershed issues and wildlife issues. Due to the breadth and effectiveness of his evidence, his account was reasonable and should be awarded in full.

5.3 Supplemental Cost Claim for Big Loop Group

On December 17, 2009, Big Loop Group submitted a supplemental costs claim for legal fees in the amount of $21,055.00 and GST in the amount of $1,052.75, for a total costs claim of $22,107.75.

5.4 Views of Petro-Canada

Petro-Canada commented on the Big Loop Group's supplemental cost claim by letter dated April 8, 2010.

Petro-Canada reiterated its position that although the Carscallen firm represented numerous parties, only Pekisko Creek Ranch & Cattle Co. Ltd. was entitled to local intervener status and costs at the time of the hearing, and accordingly, it requested that the amounts recoverable by way of local intervener costs for the Big Loop Group be reduced significantly to reflect that reality.

Petro-Canada submitted that it required backup for the amounts claimed in order to determine whether they were reasonable. It stated that it was surprised this material was not provided, as this issue was raised previously with respect to the initial costs claim of the Big Loop Group, and that it appeared the Big Loop Group was attempting to manipulate the cost process to prevent an effective review of its costs claim.

Petro-Canada submitted that the supplemental claim of Mr. S. Carscallen for an additional 58 hours and of Mr. B. Carscallen for an additional 45 hours appeared excessive and were not reflected in the materials submitted to the Board.

Petro-Canada submitted that the actions and submissions of the Big Loop Group unnecessarily lengthened the duration of the proceeding and resulted in unnecessary costs. It further submitted that the Big Loop Group's November 9, 2009 submission was lengthy, of limited value to the Board, and contained portions which were inflammatory and filled with statements unsubstantiated by any evidence.

Petro-Canada submitted that a significant portion of the supplemental costs claimed related to the Big Loop Group application to reopen the hearing, which was unnecessary and resulted in prolonging the hearing process and additional costs for all participants.

Petro-Canada submitted that the Board should significantly reduce the costs claim of the Big Loop Group in recognition of those factors.

5.5 Views of the Big Loop Group

The Big Loop Group responded to Petro-Canada's comments on its supplemental costs claim by way of correspondence dated April 19, 2010. It enclosed copies of its time dockets.

The Big Loop Group stated that its membership was comprised of three local interveners and two discretionary participants, in addition to the Municipal District of Ranchlands No. 66, whose participation in the hearing was encouraged by the Board. The Big Loop Group reiterated its letter of October 9, 2009, which stated its position on these matters.

With respect to the time claimed by counsel for the Big Loop Group, it submitted that the time spent addressing the issue of alternative routes was of critical importance in assisting the Board to reach an informed decision, and was necessary due to the inadequacy of Petro-Canada's treatment of alternative routes in its application and final argument.

The Big Loop Group submitted that Petro-Canada's allegations in respect of its actions were unfounded and inaccurate. Its Supplemental Costs Claim was made necessary by the Board's express request that Petro-Canada make further submissions in respect of alternative routes, with the concomitant opportunity afforded to Interveners to provide further submissions. It further indicated that, as shown in the dockets, the supplemental costs claim did not include any time in respect of the application to reopen the hearing.

5.6 Views of Petro-Canada

Petro-Canada responded by way of correspondence dated April 27, 2010.

With respect to the status of the members of the Big Loop Group, Petro-Canada pointed out that by the time the hearing took place, Big Loop Cattle Co. Ltd. no longer had any interest in the grazing lease and grazing allotment that gave rise to its standing and local intervener status; these interests had been acquired by the Pekisko Creek Ranch and Cattle Company Ltd. While the Municipal District of Ranchlands No. 66 was allowed to participate, it was not granted local intervener status by the Board.

It stated that the time dockets supplied in support of the Big Loop Group's supplemental costs claim did not correspond with the numbers contained in Forms E1 and E2 of the December 17, 2009 supplemental cost claim. The total hours claimed in the supplemental costs claim for Mr. S. Carscallen are 671.6. The original hours claimed for Mr. S. Carscallen were 613.7, for a difference of 57.9 hours. Petro-Canada's review of the time dockets supplied by the Big Loop Group supported a total of only 33.1 hours for his claimed supplemental costs. Additionally, the total for Mr. B. Carscallen in the time dockets is 49.2, which is in fact in excess of the hours he claimed in the supplemental cost claim. Petro-Canada submitted for the reasons set out in its letter of September 24, 2009, the time claimed was excessive and there appeared to be no real correlation between the hours claimed in the supplemental cost claim and the time dockets supplied.

Petro-Canada deferred to the Board to determine the value of the Big Loop Group material and its impact on the hearing process.

5.7 Views of the Board

With regard to the submissions of the Big Loop Group and Petro-Canada on the membership of the Big Loop Group and which of its members qualified as local interveners for the purposes of these cost claims, the Board reiterates that in *Decision 2008-029* it found Alec C. Burke and Family and Big Loop Cattle Co. Ltd. to be qualified to apply for local intervener costs. Following the issuance of that decision, the Big Loop Group applied for local intervener standing for another of its members, Pekisko Creek Ranch and Cattle Co. Ltd. By way of letter dated June 23, 2009, the Board granted that request. The Board notes Petro-Canada's submission that by the time of the commencement of the hearing in this matter, Big Loop Cattle Co. Ltd. no longer had any interest in the grazing lease and grazing allotment which gave rise to its standing and local

intervener status, as these interests had been acquired by Pekisko Creek Ranch and Cattle Co. Ltd. The Board considers Alec C. Burke and Family as well as Pekisko Creek Ranch and Cattle Co. Ltd. to be qualified to apply for local intervener costs in this matter.

Petro-Canada argued that the total costs awarded to the Big Loop Group should be reduced by virtue of the other members of the group who were not found by the Board in *Decision 2008-029* to be qualified to apply for local intervener costs, which would result in the Big Loop Group being awarded 2/6^{ths} of any total amount of costs awarded to them by the Board.

The Board notes that section 6.2 of *Directive 031A (August 2001)* provides that where issues in conflict are common to a number of local interveners, a group intervention is often appropriate, and in some instances can result in beneficial effects such as reducing the duplication of information presented at a hearing. It has been the Board's longstanding practice to allow persons who do not satisfy the definition of local interveners to participate in a proceeding as members of a local intervener group. The Board wishes to continue to encourage the organization of such group interventions where reasonable and appropriate. As such, the Board does not agree with the argument of Petro-Canada in this regard and declines to order such a reduction.

Having said that, the Board wishes to note that four of the six parties who comprise the Big Loop Group were not found by the Board in *Decision 2008-029* to be qualified to apply for local intervener costs. Accordingly, without their participation in the Big Loop Group, these parties would not have otherwise been eligible to submit cost claims for consideration by the Board. The Board notes generally that it would be concerned if parties within such groups who were not found to be eligible to submit local intervener costs became key drivers of interventions before the Board, thereby driving up legal and other costs which members of the group who were found by the Board to be qualified to submit claims for local intervener costs would then purport to claim as their own. The Board assumes in this matter that this did not occur and thereby contribute to claims for inflated or increased costs as a result.

Legal Fees and Expenses

Having considered all of the foregoing, the Board finds that not all of the professional fees incurred by counsel for the Big Loop Group were reasonable and necessary in light of the particular circumstances of this matter. While some of the submissions made by counsel for the Big Loop Group were of assistance to the Board in its decision on the applications, the Board has also carefully considered the comments and concerns of Petro-Canada in this regard. As a result, the Board finds that certain reductions to the legal fees and expenses of the Big Loop Group are in order, and are detailed below.

The Board notes that counsel for the Big Loop Group appears to have claimed hours in their time dockets which precede the issuance of the Notice of Prehearing Meeting, dated February 20, 2008. In accordance with its decision set out above at page 7, section 4.1, the Board declines to award Mr. S. Carscallen the 32.7 hours claimed for time spent prior to February 20, 2008, Mr. B. Carscallen the 8.2 hours claimed for time spent prior to February 20, 2008, Ms. Deirdre Lanigan Kulyk the 0.1 hours claimed for time spent prior to February 20, 2008, and Ms. Hema Chengkalath the 0.9 hours claimed for time spent prior to February 20, 2008.

With regard to the fees of Mr. S. Carscallen, the Board notes that the claimed hours in the Big Loop Group's Form E2 dated December 15, 2009, and the hours recorded in his time dockets differ from one another. The total hours claimed in the December 15, 2009 Form E2 are 671.60, whereas the total hours recorded in his time dockets submitted on October 9, 2009, are 645.10.

Directive 031A (August 2001), section 5.2.1 is clear that all claims for lawyers' fees must be supported by a copy of the lawyer's account including sufficient detail. The Board finds that the 645.10 total hours recorded in the time dockets is the proper figure it should consider when making an award of costs for legal fees, as this total is substantiated by the dockets themselves. This amount will, of course, be subject to the adjustments described above and below.

The Board notes the submissions of Petro-Canada that Mr. S. Carscallen displayed a pattern of disregard for the Board's rules, processes and directions, beginning with the filing of its submission, and continuing throughout the hearing.

The Board in a letter dated September 24, 2008, set out a submissions deadline schedule for the hearing of which all interested parties were advised. The Big Loop Group filed a one-page submission with the Board on October 14, 2008. It enclosed no expert information or reports.

Petro-Canada by way of letter dated October 20, 2008 objected to the October 14, 2008 submission of the Big Loop Group on a number of grounds, including that it did not meet the provisions of Rules 10, 17, and 24 of the *Rules of Practice*, and that it was deficient in a number of respects. The Big Loop Group responded by letter dated October 22, 2008, arguing that its submission did comply with the provisions of Rule 17 and 24 of the *Rules of Practice*, and that they had previously filed a submission which met the requirements of Rule 10 prior to the prehearing meeting held on March 18, 2008. The Big Loop Group subsequently filed two expert reports with the Board on October 24, 2008.

The Board in a letter dated November 5, 2008, considered the submissions of the Big Loop Group and Petro-Canada on these matters. It noted that the Big Loop Group appeared to have interpreted the combined effect of Rules 17 and 24 of the *Rules of Practice* to allow the filing and service of expert reports separately from and later than when its required submission was filed and served, as it had filed a short submission in accordance with the deadline of October 14, 2008, and then followed it with two expert reports on October 24, 2008. The Board directed the Big Loop Group to supplement its submission to the extent possible with greater detail of the specific facts it intended to prove and to provide an indication of the witnesses it intended to call, by no later than November 10, 2008, failing which the Board advised it would seriously restrict the Big Loop Group's intervention at the hearing to the matters raised in its submission. The Big Loop Group submitted a supplemental submission on November 10, 2008.

Petro-Canada in a letter dated November 7, 2008, stated that the Board's November 5, 2008 letter and directions appeared to have been prepared without the Board being aware that three further reports had been served on it by the Big Loop Group on November 4, 2008. Petro-Canada requested that the Board direct that the three reports not be admitted in evidence at the hearing. The Board in a letter dated November 11, 2008, denied the motion of Petro-Canada to exclude these reports from the hearing scheduled to begin the next day, November 12, 2008, stating it was interested in hearing the evidence. The Board reiterated that when deadlines are set for parties' submissions, those deadlines are intended to include the filing and service of expert

reports, despite possible interpretations of the combined effect of those deadlines and Rules 17 and 24 of the *Rules of Practice*.

On January 26, 2009, three days prior to the recommencement of the hearing that week, the Big Loop Group submitted a supplemental report from Mr. Hermanson. Petro-Canada objected by way of letter dated January 26, 2009, stating the report had been filed contrary to the submissions deadline schedule set out by the Board. It further stated that the Big Loop Group's blatant disregard for the *Rules of Practice* was abusive of the Board's process, and requested that the Board disregard the late report pursuant to Rule 8(2) of the *Rules of Practice*.

The Board in a letter dated January 28, 2008, stated that it believed it could be assisted by further evidence and therefore allowed the report to be submitted. However, notwithstanding this, it noted this was not the first time the Big Loop Group had submitted materials or evidence after the Board's deadlines, and that it is not appropriate for any party to a Board proceeding to disregard the *Rules of Practice* by purporting to give the Board and other interested parties "notice" on the record or in correspondence that further materials, evidence, or other documents might be forthcoming after those deadlines have passed. The Board stated that such practices are contrary to the spirit and intent of the *Rules of Practice* and essentially compromise the principle of fairness they are designed to promote. The Board further stated that it was disappointed this had occurred yet again and advised it would deal with this late filing, as well as other instances of non-compliance with the *Rules of Practice*, in its Costs Order arising from the proceedings in a manner that it considered appropriate.

The Board notes the submissions of Petro-Canada that much of Mr. S. Carscallen's cross-examination of Petro-Canada's witnesses was excessive, repetitive and argumentative, resulting in the hearing being unnecessarily prolonged and resulting in greater costs being incurred by all parties. The Board has also considered the response of the Big Loop Group in this regard. It notes that the Big Loop Group cross-examined Petro-Canada's first witness panel for a total of approximately five days, on November 12, 13, 14, 19, and 20, 2008. The Board finds that Petro-Canada's argument has some merit and that his cross-examination was at times repetitive and argumentative which did not add value to the proceeding and did not assist the Board in its decisions on the applications.

Similarly, the Board finds that, while some of the witnesses for the Big Loop Group were of assistance to the Board in its decision on the applications, some of the witnesses advanced were unnecessary or unhelpful, and the scheduling of their appearances resulted in prolonging the proceeding.

The Board notes that on December 19, 2008, prior to Ms. Beunder being called as a witness in the proceeding, Mr. S. Carscallen, stated at page 3767 of the transcript, lines 9 to 12, that they had contemplated calling her as a witness along with Mr. Hermanson, but that it really wasn't necessary to do so. With regard to Mr. Bartlett, the Board notes that there were discussions at the hearing on December 19, 2008 regarding the timing of his evidence, as he was to be out of the country until February 2009 and the Big Loop Group had intended on calling him as a non-expert witness regarding routing of the trunkline.

Not only was the evidence of Ms. Beunder, Mr. Hermanson (both of which are discussed in greater detail below at pages 18 and 19), and Mr. Bartlett of limited assistance to the Board in its

decision on the applications, the difficulties in scheduling their appearances took up valuable hearing time in an already lengthy proceeding and resulted in prolonging the hearing.

Having considered all of the foregoing, the Board finds that the Big Loop Group's instances of noncompliance with the *Rules of Practice*, its failures to comply with the Board's processes and directions in this proceeding, as well as its carrying out with practices at the hearing which were unnecessary and which resulted in prolonging an already lengthy proceeding, do warrant a reduction in its cost award. The Board orders a reduction of the total amount of legal fees awarded to the Big Loop Group in the amount of twenty percent (20%). This reduction is ordered with a view to recognizing non-compliant conduct and with a view to reinforcing to applicants and interveners that the Board's *Rules of Practice*, processes, and directions are to be complied with in order to best ensure the principles of natural justice and procedural fairness they are designed to foster and promote are available to all parties that appear before it.

With regard to the fees of Mr. B. Carscallen, the Board notes that the claimed hours in the Big Loop Group's Form E2 dated December 15, 2009, and the hours recorded in his time dockets differ from one another. The total hours claimed in the December 15, 2009 Form E2 are 550.30, whereas the total hours recorded in his time dockets submitted on October 9, 2009, are 529.40. Pursuant to section 5.2.1 of *Directive 031A (August 2001)*, the Board finds that the 529.40 total hours recorded in the time dockets is the proper figure it should consider when making an award of costs for legal fees, as this total is substantiated by the dockets themselves. This amount will, of course, be subject to the adjustments described above and below.

With regard to the fees of articling students Ms. Grice and Ms. Quinn, the Board notes that the claimed hours in the Big Loop Group's Form E2 dated December 15, 2009, and the hours recorded in their time dockets differ from one another. The total hours claimed in the December 15, 2009 Form E2 for Ms. Grice are 29.70 and for Ms. Quinn are 8.50, whereas the total hours recorded in the time dockets submitted on October 9, 2009, are 27.80 and 13.10, respectively. Pursuant to section 5.2.1 of *Directive 031A (August 2001)*, the Board finds that the 27.80 and 13.10 total hours recorded in the time dockets for Ms. Grice and Quinn, respectively, are the proper figures it should consider when making an award of costs for legal fees, as these totals are substantiated by the dockets themselves. This amount will, of course, be subject to the adjustments described above and below.

With regard to the fees claimed by the Big Loop Group for Mr. G. Ken Little and Mr. Michael Niven, the time dockets provided by the Big Loop group do not show any time entries for these counsel. Pursuant to section 5.2.1 of *Directive 031A (August 2001)*, these fees are disallowed.

With regard to the fees of paralegal Ms. Grant, the Board notes that the claimed hours in the Big Loop Group's Form E2 dated December 15, 2009, and the hours recorded in their time dockets differ from one another. The total hours claimed in the December 15, 2009 Form E2 for Ms. Grant are 4.60, whereas the total hours recorded in the time dockets submitted on October 9, 2009, are 1.80. Pursuant to section 5.2.1 of *Directive 031A (August 2001)*, the Board finds that the 1.80 total hours recorded in the time dockets for Ms. Grant is the proper figure it should consider when making an award of costs for legal fees, as this total is substantiated by the dockets themselves.

The Board also notes the comments of Petro-Canada that the Big Loop Group failed to provide its detailed statements of account when submitting both its initial and supplemental cost claims.

Section 6.3.1 of *Directive 031A (August 2001)* provides that all cost claims submitted by a lawyer should be supported by a copy of the lawyer's account and must include sufficient detail to demonstrate that all items billed were necessary and related to the proceeding. While these were provided eventually in the replies of the Big Loop Group to the comments of Petro-Canada in submissions dated October 9, 2009 and April 19, 2010, not only did Petro-Canada state that this late submission afforded them less of an opportunity with which to examine the claims being advanced and comment thereupon, but the Board notes that the late submission of these important materials also rendered its consideration of these claimed costs more difficult.

Finally, the claims for expenses and disbursements in the supplemental costs claim of the Big Loop Group appear to be generally reasonable in light of the particular circumstances of this matter. The Board awards these in full.

As such, the Board hereby makes an award of costs to Carscallen Leitch LLP for professional fees, disbursements, and expenses as follows:

Professional fees claimed	Professional fees	Reduction	Disbursements and expenses claimed	Disbursements and expenses awarded	Reduction
$254,003.50	$187,917.60	$66,085.90	$9,042.55	$9,042.55	$0

Expert Fees and Expenses

Charles Mamo, Timothy Kaminski, Cheryl Bradley, Lorne Fitch, and David Mayhood

Having considered all of the foregoing, the Board finds that the claimed fees for these experts were generally reasonable and necessary in light of the particular circumstances of this matter. As can be seen in *Decision 2010-022*, the evidence given by these witnesses regarding, among other things, wolves, rare vegetation and vegetation communities, and surface water quality and fisheries was helpful to the Board in its decision on the applications. The Board also finds that the claimed expenses and disbursements for these experts appear to be reasonable under the circumstances.

As such, the Board hereby makes an award of costs to Carscallen Leitch LLP for these experts' professional fees, disbursements, and expenses as follows:

	Professional fees claimed	Professional fees awarded	Reduction	Disbursements and expenses claimed	Disbursements and expenses awarded	Reduction
Mr. C. Mamo and Mr. T. Kaminski (SACC)	$7,620.00	$7,620.00	$0	$300.00	$300.00	$0
Ms. C. Bradley	$4,460.00	$4,460.00	$0	$0	$0	$0
Mr. L. Fitch	$8,450.00	$8,450.00	$0	$372.00	$372.00	$0
Mr. D. Mayhood	$4,050.00	$4,050.00	$0	$0	$0	$0

Kristi Beunder and David Hermanson

In *Decision 2010-022*, at pages 26 and 27, the Board stated how it had considered an alternative route to the Mazeppa plant proposed by Ms. Beunder of Longview Planning and Design. She had prepared a report entitled "Sullivan Field Route Assessment - Alternative Alignment to the Mazeppa Partnership Processing Facility" and she gave evidence at the hearing on January 30, 2009. The Board noted she was not asked to make any comparisons with or challenge Petro-Canada's applied-for Eden Valley route in her analysis. The Board also noted she had never designed a pipeline route, had not, in the preparation of her report, received any input from construction specialists, landscape planning specialists, or environmental scientists, and had not read any of Petro-Canada's application materials. She was not aware of and did not consider potential impacts on native vegetation, grasslands and visual resources. She also did not address best practice setbacks from the Highwood River basin, the ERCB *Directive 071* ERP regulations, increasing country residential and industrial development in the region, the fact that the majority of the length of the route would cross private or deeded lands, the routing challenge posed by the OH Ranch Heritage Rangeland, and differing pipeline setback distances. No other evidence from other Interveners was adduced to show that this alternative route to Mazeppa was viable. The Board gave Ms. Beunder's report and evidence little weight and found that the alternative route to the Mazeppa plant put forward by the Big Loop Group was not a viable alternative route.

In *Decision 2010-022*, the Board also considered the arguments of Interveners that the 541/940 route would have less impact on the area and would be a better option than Petro-Canada's applied-for Eden Valley route in a number of ways. It considered the report submitted by Mr. Hermanson, which concluded that the 541/940 route was preferable to Petro-Canada's applied-for Eden Valley route. Mr. Hermanson was a pipeline estimator whose company was not licensed to practice engineering, and he had never been involved in the construction of a pipeline with similar characteristics to the proposed trunk line. In preparing his report, he undertook a desktop review of the feasibility of horizontal directional drilling (HDD) on the 541/940 route and did not undertake any geotechnical review of the Eyrie Gap. Mr. Hermanson was not retained or qualified to express an expert opinion on the feasibility or constructability of pipeline routing or HDD options for the Project. In his report, he did not consider other factors or impediments to this route, nor did he consider the presence of wildlife zones, potential watershed and fisheries impacts, the presence of important historical sites, reclamation and visual considerations, public safety, setbacks, or the input of any other qualified professionals. Notably, he did not consider the 2350 m HDD with no contingency plan to be an obstacle in his evidence. The Board gave the Hermanson report and evidence little weight in *Decision 2010-022* and found that the comparison provided by Mr. Hermanson's evidence of Petro-Canada's applied-for Eden Valley route and the 541/940 route was simplistic, not objective, and prepared by a lay person who was not an expert in the consideration of any of the 45 factors set out, and that as a result, the comparison was of no value to it.

Further, with regard to Mr. Hermanson's claimed expenses of $35,931.51, the Board finds that these are better characterized as fees under his claim. Tab D of the Big Loop Group's supplemental costs claim response dated October 9, 2009, contains invoices which the Big Loop Group asserts provides the backup for these claimed expenses. Upon review, these expenses appear to predominantly consist of hours incurred by two contractors hired on behalf of Mr. Hermanson's company to complete field work and analysis, while Mr. Hermanson worked out of the province prior to the hearing. As such, the Board is of the view the claimed $35,931.51 in

expenses for Mr. Hermanson is more properly claimed as fees under his claim and will consider this amount combined with his amount of $37,050.00 in claimed fees, for a total amount of $72,981.51.

Having considered all of the foregoing, the Board declines to award Carscallen Leitch LLP its claimed costs for these experts. However, it has decided in this particular instance to exercise its discretion and make nominal awards for some of these experts' fees and expenses. The Board awards Carscallen Leitch LLP the amount of twenty-five percent (25%) of Ms. Beunder's fees and declines to make any award for her expenses. The Board also awards Carscallen Leitch LLP the amount of twenty-five percent (25%) of Mr. Hermanson's fees. As such, the Board hereby makes an award of costs to Carscallen Leitch LLP for these experts' professional fees as follows:

	Professional fees claimed	Professional fees awarded	Reduction	Disbursements and expenses claimed	Disbursements and expenses awarded	Reduction
Ms. K. Beunder (Longview Planning and Design)	$4,880.00	$1,220.00	$3,660.00	$858.00	$0	$858.00
Mr. D. Hermanson (Landmark Projects)	$72,981.51	$18,245.38	$54,736.13	$0	$0	$0

Summary of Costs Awarded

	Professional fees claimed	Professional fees awarded	Reduction	Disbursements and expenses claimed	Disbursements and expenses awarded	Reduction
Carscallen Leitch LLP	$254,003.50	$187,917.60	$66,085.90	$9,042.55	$9,042.55	$0
Mr. C. Mamo and Mr. T. Kaminski (SACC)	$7,620.00	$7,620.00	$0	$300.00	$300.00	$0
Ms. C. Bradley	$4,460.00	$4,460.00	$0	$0	$0	$0
Mr. L. Fitch	$8,450.00	$8,450.00	$0	$372.00	$372.00	$0
Mr. D. Mayhood	$4,050.00	$4,050.00	$0	$0	$0	$0
Ms. K. Beunder (Longview Planning and Design)	$4,880.00	$1,220.00	$3,660.00	$858.00	$0	$858.00
Mr. D. Hermanson (Landmark Projects)	$72,981.51	$18,245.38	$54,736.13	$0	$0	$0
TOTAL AMOUNTS AWARDED		$231,962.98			$9,714.55	

Amounts already paid to the Big Loop Group

Petro-Canada made an interim payment of funds to the Big Loop Group on January 27, 2010 in the amount of $90,592.70. This amount shall be subtracted from the final total amount awarded to the Big Loop Group.

6 ROYAL ADDERSON AND BAR AD RANCHES

On July 30, 2009, Adderson submitted a costs claim for legal fees and honoraria in the amount of $156,164.00, expert fees in the amount of $89,542.50, expenses in the amount of $9,123.99 and GST in the amount of $12,629.54, for a total costs claim of $267,469.03.

6.1 Views of Petro-Canada

Petro Canada replied to the cost claim of Adderson on August 12, 2009.

Regarding legal fees and expenses, Petro-Canada submitted that the hourly rates charged by counsel for Adderson exceeded the amounts set out in the Scale of Costs in *Directive 031A (August 2001)*, and that they be adjusted as follows:

- Mr. Gavin Fitch billed 74.4 hours at $350.00/hour – should be reduced to $250.00/hour for a reduction of $7,440.00.
- Mr. David Farmer billed 11.9 hours at $180.00/hour – should be reduced to $140.00/hour for a reduction of $476.00.
- Mr. Warren Woo billed 3.2 hours at $180.00/hour – should be reduced to $140.00/hour for a reduction of $128.00. Mr. Woo also billed 7.3 hours at $165.00/hour – should be reduced $140.00/hour for a reduction of $182.50.

It stated that this would result in a total reduction of these legal fees in the amount of $8,226.50.

It submitted that the articling student for counsel for Adderson claimed a rate of $150.00/hour when the Scale of Costs in *Directive 031A (August 2001)* only allows for an hourly rate of $90.00 for articling students; therefore, the student's fees should be reduced by $1,638.00.

It noted that costs for two paralegals had been submitted without explanation or justification, which should be either denied entirely or reduced to the rate set out in the Scale of Costs in *Directive 031A (August 2001)* which provided for $65.00/hour for paralegals as opposed to the $110.00 and $135.00/hour claimed, resulting in a reduction of $2,233.00 if no paralegal time was allowed or a reduction of $1,889.00 if *Directive 031A (August 2001)* Scale of Costs rates were used.

It submitted that the April 16, 2009 account included charges not related to the hearing which should be denied. These entries included charges for a May 20, 2009 phone call and the May 21, 2009 material regarding Court of Appeal matters. Petro-Canada stated the total reduction to that account should be $465.00.

Petro-Canada noted that the travel time claimed on behalf of counsel for Adderson appeared to have been charged at the full hourly rate as opposed to half the hourly rate as set out in the Scale of Costs in *Directive 031A (August 2001)*. In addition, no breakdown was provided of entries for the actual travel time to and from the site or residences to the hearing. It stated that there should be a reduction of $640.00 in the November 14, 2008 account, $1,980.00 in the November 28, 2008 account, $1,670.00 in the December 31, 2008 account, and $250.00 in the July 27, 2009 account to reflect the rates allowed by the Scale of Costs in *Directive 031A (August 2001)*, resulting in a total reduction of $4,540.00.

With regard to Intervener honoraria, Mr. Adderson claimed an honorarium of $1,400.00, which Petro-Canada took no issue with in its September 24, 2009 or April 8, 2010 submissions.

Regarding the fees and expenses of Dr. Bruce F. Leeson, Petro-Canada was of the view that his account included significant amounts of time spent and claimed for which were not directly related to the evidence he provided at the hearing. Petro-Canada took issue with entries made on March 18, May 2, July 15, July 28, September 1, 2008, January 19 and January 20, 2009. It submitted that the claim for Dr. Leeson's fees and expenses should be reduced by 64 hours for the time incurred on those dates, for a total reduction of $8,000.00. It noted that a breakdown was not provided for his travel time, and that the entries for October 17, November 12, November 14, and December 12, 2008 all included significant travel in the range of 2 hours per day. It submitted that there should be a reduction in his travel costs of $125.00 per day for a total reduction of $500.00.

Regarding the fees and expenses of Dr. Brad Stelfox, Petro-Canada argued that the evidence he provided was of limited value and that his report was of poor quality, containing unintelligible graphics, unsupported opinions, and unrelated examples. It submitted that his account be reduced by half for a total reduction of $21,131.15. Petro-Canada further submitted that Dr. Stelfox took excessive time for the completion of his undertakings. The account indicated he recorded 48 hours to respond to undertakings, and Petro-Canada took the position that he had not properly responded to some of the undertaking requests. It suggested that his account for responding to undertakings should also be reduced by half, for a total reduction of $4,750.00.

Regarding the fees and expenses of Mr. David Finch, Petro-Canada submitted that the value of his evidence to the project was minimal, and noted that he had acknowledged under cross-examination that Petro-Canada had complied with all necessary legislative requirements. It submitted that the costs claimed for Mr. Finch should be denied entirely, and that the Board should also take note that he did not break out his travel time which should be charged at half.

With regard to the fees of Mr. A. Grant MacHutchon, Petro-Canada was of the view that the 200 hours he claimed were excessive. It stated that Mr. MacHutchon did not carry out a field investigation, did not review all of the material and that his evidence was of questionable assistance to the panel. In addition, his travel time was not broken down. It submitted that Mr. MacHutchon's claim should be reduced by half for a total reduction of $8,413.67.

6.2 Views of Royal Adderson and Bar AD Ranches

Adderson responded to the comments of Petro-Canada on August 28, 2009.

Adderson was of the view that if the hourly rate for its articling student was reduced, it should only be reduced to $140.00 per hour as opposed to $90.00 per hour for a total reduction of $271.00, not $1,638.00 as requested by Petro-Canada. Should the Board not agree, then Adderson stated it agreed with Petro-Canada's submission.

Adderson submitted that the time charged in relation to the use of two paralegals was reasonable and within the usual course of duties for paralegals at McLennan Ross LLP. The majority of the time incurred by the paralegals was for obtaining and reviewing Land Titles documents and Sustainable Resources documents, requiring training with land titles software as well as a greater level of expertise. It submitted these costs should be awarded in full.

Adderson agreed that time entries that were not related to the hearing should not be awarded. It also agreed that an adjustment was necessary with respect to the travel time incurred by counsel for Adderson and advised they would adjust their claim accordingly.

Regarding the fees and expenses of Dr. Leeson, Adderson disagreed with Petro-Canada's assertion that his account should be reduced. Dr. Leeson billed his time at half the amount an expert with his experience could charge under the *Directive 031A (August 2001)* Scale of Costs. Adderson submitted that his attendance at the prehearing meeting was necessary to provide him with critical background information that contributed to his evidence. The time entries of May 2, July 15, July 28 and September 1, 2008, were incurred when he did an examination of the well sites and pipeline route. Adderson submitted that those entries were appropriate as Dr. Leeson provided an on-the-ground account of the area that would be impacted by the proposed development; and as a result, the evidence he presented was detailed and provided a unique understanding of the area. Adderson took no issue with the adjustment requested by Petro-Canada for Dr. Leeson's travel time.

Regarding the fees and expenses of Dr. Stelfox, Adderson disagreed strongly with Petro-Canada's assessment of Dr. Stelfox's evidence, submitting that the form of detailed cumulative effects analysis employed by Dr. Stelfox and the ALCES model, respectfully, are novel to Board proceedings and that accordingly, it is understandable why some may discount them as they are outside the traditional conceptualization of developmental impacts. Adderson noted the Board has found Dr. Stelfox's evidence to be helpful in other matters, namely in *Decision 2009-008 (Report of the Joint Review Panel Established by the Federal Minister of the Environment and The Alberta Energy and Utilities Board; EnCana Corporation, Shallow Gas Infill Development Project, Suffield National Wildlife Area)*. It was of the view that Dr. Stelfox was just as helpful in this proceeding and that his evidence provided considerable value and took a realistic and proactive approach to the issues before the Board.

Adderson submitted that Petro-Canada did not realize that the undertakings requested of Dr. Stelfox in fact required a great deal of simulation analysis. Petro-Canada had an issue with an apparent discrepancy in the regional study area and stated that it felt that the issue remained unresolved and cast doubt upon Dr. Stelfox's entire analysis. Adderson submitted that Dr. Stelfox had acknowledged the discrepancy, explained it and advised that it had no bearing. Adderson was of the view that Petro-Canada had a problem with the answer to the undertaking and that Petro-Canada felt that it warranted a reduction to Dr. Stelfox's time.

Adderson argued that Petro-Canada's position that Dr. Stelfox had not replied to one of the undertakings was being used as a reason for Petro-Canada to discount Dr. Stelfox's claim. Dr. Stelfox did not ignore the undertaking, but in fact had advised that the time allotted to answer it was inadequate. In the view of Adderson that was an appropriate response, since Dr. Stelfox did not delay the proceeding further. Adderson stated that Petro-Canada could have brought a motion to have Dr. Stelfox compelled to answer. It did not, and Adderson submitted that this was an insufficient ground for discounting Dr. Stelfox's claim.

Regarding the fees and expenses of Mr. Finch, Adderson submitted that his evidence provided perspective, not one of science or of economics, but one that considered the uniqueness of the impact of our history in the context of development, both past and present, which was of considerable importance to the interveners affected by the proposed development. Adderson

agreed that Mr. Finch's travel time was in fact not noted in the costs claim and submitted that it should be recorded as $450.00.

Regarding the fees and expenses of Mr. MacHutchon, Adderson noted that his time was billed at $75.00 per hour less than was allowed in the *Directive 031A (August 2001)* Scale of Costs. Mr. MacHutchon is a recognized leader in his field and he provided a thorough and detailed analysis of Petro-Canada's assessment of the impact that the proposed development will have on grizzly bears in the area. While Mr. MacHutchon did not carry out any field investigations specifically for this case, this did not mean his evidence was inaccurate, as he had previously carried out extensive investigations and, if anything, his reliance on previous studies likely resulted in greater efficiencies for this proceeding, resulting in cost savings for all.

With respect to Mr. MacHutchon's travel time, the invoice indicates that he made two trips, one to the site and one to the hearing, both from his home in Nelson, British Columbia. Adderson submitted that due to the fact that Mr. MacHutchon billed below the Scale of Costs, no reduction should be made for his travel.

6.3 Supplemental Costs Claim of Royal Adderson and Bar AD Ranches

On February 8, 2010, Adderson submitted a supplemental costs claim for legal fees and honoraria in the amount of $5,530.00, expenses in the amount of $215.06 and GST in the amount of $287.26, for a total costs claim of $6,032.32.

6.4 Views of Petro-Canada

Petro-Canada submitted that as per the Scale of Costs contained in Directive *031A (August 2001)*, the supplemental costs claimed by Adderson should be reduced to $3,950.00 for fees with a corresponding reduction in GST to $197.50 for a total of $4,147.50 as opposed to the $5,806.50 claimed.

6.5 Views of the Board

McLennan Ross LLP

Having considered all of the foregoing, the Board finds most of the professional fees incurred by counsel for Adderson to be reasonable and necessary in light of the particular circumstances of this matter. The professional fees incurred were generally in line with the scope and nature of the proceeding and the submissions made by counsel for Adderson were of assistance to the Board in its decision on the applications.

Having said that, the Board notes that the hourly rate amounts claimed by counsel for Adderson were not all based on the rates set out in the Scale of Costs in *Directive 031A (August 2001)*. Specifically, Mr. Fitch claimed 74.40 hours at a rate of $350.00 per hour, Mr. Farmer claimed 11.90 hours at a rate of $180.00 per hour, and Mr. Woo claimed 3.20 hours at a rate of $180.00 per hour and 7.30 hours at a rate of $165.00 per hour, respectively. None of these claims are in accordance with the Scale of Costs in *Directive 031A (August 2001)*. These claims for professional fees will be calculated as per the hours claimed, but in accordance with the prescribed hourly rates set out in *Directive 031A (August 2001)*.

With regard to Mr. Both, Ms. Jahraus, and Ms. McMillan, the Board notes that they too have claimed hourly rates which exceed those provided for in the Scale of Costs in *Directive 031A (August 2001)*. These claims will be calculated as per the hours claimed, but in accordance with the prescribed hourly rates set out in *Directive 031A (August 2001)*.

The Board notes the comments of Petro Canada and Adderson regarding the reduction in travel time for counsel, as well as the legal fees claimed for time spent which was unrelated to the hearing but related to a Court of Appeal matter stemming from this proceeding, and is in agreement with the proposed reductions of $4,540.00 and $465.00, respectively.

With regard to the $6,869.46 claimed in expenses and disbursements by counsel for Adderson, these as well appear to be generally reasonable and necessary in light of the particular circumstances of this matter. The Board awards them in full.

With regard to Intervener honoraria, the Board notes Petro-Canada's suggested amount of $1,400.00 and is prepared to grant Mr. Adderson his claimed attendance honoraria in the amount of $1,400.00.

With regard to the supplemental costs claim advanced by counsel for Adderson, the Board notes that the hourly rate amounts claimed by counsel for Adderson were not based on the rates set out in the Scale of Costs in *Directive 031A (August 2001)*. Specifically, Mr. Fitch claimed 15.80 hours at a rate of $350.00 per hour. This claim is not in accordance with the Scale of Costs in *Directive 031A (August 2001)*. These claims for professional fees will be calculated as per the hours claimed, but in accordance with the prescribed hourly rates set out in *Directive 031A (August 2001)*. The Board also finds that the claims for expenses and disbursements in the supplemental costs claim of Adderson appear to be generally reasonable in light of the particular circumstances of this matter and awards them in full.

As such, the Board hereby makes an award of costs to McLennan Ross LLP for professional fees, disbursements, and expenses as follows:

Professional fees and honoraria claimed	Professional fees and honoraria awarded	Reduction	Disbursements and expenses claimed	Disbursements and expenses awarded	Reduction
$161,694.00	$141,043.50	$20,650.50	$7,084.52	$7,084.52	$0

Experts' Fees and Expenses

Having considered all of the foregoing, the Board finds that the claimed fees for these experts were generally reasonable and necessary in light of the particular circumstances of this matter.

With regard to the fees claimed for Mr. Richard Wright, while noise was not a central issue in the proceeding, the Board appreciates that it was an issue which still necessitated expert evaluation in order to determine the level of focus that Adderson chose to devote to it, as opposed to the other issues he chose to focus on at the hearing, given the proximity of the Adderson residence to the proposed central facility location.

Regarding the fees and expenses claimed for Dr. Bruce Leeson, as can be seen in *Decision 2010-022*, his evidence regarding, among other things, the central facility location, as well as backcountry camping and hunting activities in the context of emergency response planning was

of some assistance to the Board in its decision on the applications. However, the Board is mindful of the reduction suggested by Petro Canada to Mr. Leeson's travel time expenses, as well as the agreement regarding same from counsel for Adderson, and so reduces his travel expenses accordingly, in the amount of $500.00.

Regarding the fees claimed for Dr. Brad Stelfox, as can be seen in *Decision 2010-022*, his evidence regarding, among other things, the Southern Foothills Study, the Alberta Landscape Cumulative Effects Simulator model, and cumulative project effects was of some assistance to the Board in its decision on the applications.

With respect to the fees claimed for Mr. David Finch, the Board finds that his evidence was demonstrative of a unique perspective in terms of presenting the history of the area in the context of development both past and present, and was of some assistance to the Board in its decision on the applications.

Regarding the fees and expenses claimed for Mr. A. Grant MacHutchon, as can be seen in *Decision 2010-022*, his evidence regarding, among other things, grizzly bears, their habitat, and their mortality risks was of some assistance to the Board in its decision on the applications.

With the exception of the reduction in travel time for Dr. Leeson as noted above, the Board also finds that the claimed expenses and disbursements for these experts appear to be reasonable under the circumstances.

As such, the Board hereby makes an award of costs to McLennan Ross LLP for these experts' professional fees, disbursements, and expenses as follows:

	Professional fees claimed	Professional fees awarded	Reduction	Disbursements and expenses claimed	Disbursements and expenses awarded	Reduction
Mr. R. Wright	$1,017.50	$1,017.50	$0	$0	$0	$0
Dr. B. Leeson	$22,250.00	$22,250.00	$0	$1,131.75	$631.75	$500.00
Dr. B. Stelfox	$40, 250.00	$40,250.00	$0	$0	$0	$0
Mr. D. Finch	$11,025.00	$11,025.00	$0	$72.00	$72.00	$0
Mr. A.G. MacHutchon	$15,000.00	$15,000.00	$0	$1,059.78	$1,059.78	$0

Summary of Costs Awarded

	Professional fees claimed	Professional fees awarded	Reduction	Disbursements and expenses claimed	Disbursements and expenses awarded	Reduction
McLennan Ross LLP	$161,694.00	$141,043.50	$20,650.50	$7,084.52	$7,084.52	$0
Mr. R. Wright	$1,017.50	$1,017.50	$0	$0	$0	$0
Mr. B. Leeson	$22,250.00	$22,250.00	$0	$1,131.75	$631.75	$500.00
Dr. B. Stelfox	$40,250.00	$40,250.00	$0	$0	$0	$0
Mr. D. Finch	$11,025.00	$11,025.00	$0	$72.00	$72.00	$0
Mr. A.G. MacHutchon	$15,000.00	$15,000.00	$0	$1,059.78	$1,059.78	$0
TOTAL AMOUNTS AWARDED		$230,586.00			$8,848.05	

Amounts already paid to Adderson

The Board made an award of advance funding to Adderson in the amount of $6,348.43 on June 17, 2008, and an award of interim funding to Adderson on December 15, 2009 in the amount of $65,000.00. These amounts shall be subtracted from the final total amount awarded to Adderson.

7 PEKISKO GROUP

On September 8, 2009, the Pekisko Group submitted a costs claim for legal fees in the amount of $132,650.00, expert fees in the amount of $30,250.00, honoraria in the amount of $13,500.00, expenses in the amount of $9,315.73 and GST in the amount of $8,207.88, for a total costs claim of $193,923.61.

7.1 Views of Petro-Canada

With regard to legal fees, Petro-Canada stated that no backup was provided for the time incurred by counsel for the Pekisko Group, and that the claim of 272.4 hours for hearing attending was excessive, as he was not in attendance for the full 21 days that the hearing took place.

With regard to the fees and expenses of Mr. Marc Tremblay, it submitted that his evidence was of no value to the hearing and that the claim for his fees and expenses should be denied entirely.

With regard to the fees of Dr. Richard Kennedy, it submitted that his claim for 101 hours of preparation did not provide a breakdown of what those hours entailed, the hours he claimed for preparation and attendance were excessive, and the evidence he presented was general in nature and not specific to the Project. Petro-Canada submitted that his preparation time should be reduced by half and that his attendance time should be reduced to reflect the actual amount of time that he spent at the hearing, for a reduction of $74,000.00.

With regard to Intervener honoraria, it submitted that honoraria for Charles Lockton, Mac Blades, Francis Gardiner, and Gordon Cartwright should be fixed at $1,400.00, the amount it agreed to pay Mr. Adderson as an honorarium, as honoraria awarded should be consistent throughout the various cost claims. This would result in a reduction of $5,400.00. It stated that Mr. Dayment was not an Intervener, his evidence was not focused on the application, and it was of no value to the Board, which should result in a reduction in his claim for honoraria and expenses of $3,497.65. It further submitted that no honoraria should be awarded to Lorena Blades, Harvey Gardiner, or Wendy Cartwright, as they did not provide any evidence at the hearing.

With regard to Intervener expenses, it submitted that those of Mr. Blades, Mr. Harvey Gardiner and Mrs. Cartwright should be denied as they did not present evidence at the hearing, resulting in a reduction of $2,573.10. It also submitted that Mr. Blades, Mr. Frances Gardiner, and Mr. Cartwright all claimed mileage at $0.50 per kilometer which is above the maximum allowable rate set out in the Scale of Costs in *Directive 031A (August 2001)*. The adjustment to the allowable rate would result in a reduction of $819.90.

7.2 Views of Pekisko Group

With regard to legal fees, the Pekisko Group submitted that the claimed hearing days combined preparation, attendance, and travel time in one figure. Travel time included on each day was 0.8 hours, which represents one half of the actual 1.6 hour round trip travel time. The daily figure also included a preparation component of up to 4 or 5 hours. It acknowledged that the time recording did not separate out the preparation and attendance figures for a hearing day, and acknowledged that it appeared that November 12, 2008 to March 5, 2009 were recorded as attendance time, even though some days consisted of preparation time only. It submitted that the overall hours claimed were correct, even though somewhat miscategorised.

With regard to Mr. Tremblay's fees and expenses, it submitted that although the public opinion poll presented by Leger Marketing was not determinative of any issue before the Board, that the evidence was of possible interest to the Board, was presented in a reasonably precise fashion, and the fees were not out of line with other expert fees in the proceeding.

With regard to Dr. Kennedy's fees, it acknowledged that an error was made in the allocation of Dr. Kennedy's time between preparation and attendance in its cost claim of September 8, 2009. The 9.0 hours recorded for January 20, 2009 were for hearing attendance with the remainder of the hours recorded being preparation time It stated that the claim for his fees from December 16 and 30, 2008 refers to his review of hearing transcripts and preparation for his testimony. It stated that Dr. Kennedy did not charge time or expenses for his travel to and from Pincher Creek or for his accommodation on January 19 and 20, 2009. It further submitted his hourly rate of $200.00 was reasonable.

With regard to Intervener honoraria and expenses, it submitted that all members for whom honoraria was claimed expended a great deal of time organizing and preparing for the group's submission. Numerous organizational meetings were held and all were extensively involved in providing instructions to counsel. It submitted that Mr. Dayment expended a great deal of time and effort developing a presentation with respect to animal health concerns and in assisting counsel and Dr. Kennedy in their preparations. It submitted that the contributions of Mrs. Blades, Harvey Gardiner, and Mrs. Cartwright were as valuable as those of other members of the Pekisko Group and that they should be compensated for their expenses in the same way. It also agreed that the appropriate mileage rate was $0.30 per/km.

7.3 Supplemental Costs Claim of Pekisko Group

On March 24, 2010, the Pekisko Group filed a supplemental costs claim for an additional $9,450.00 in legal fees, $52.70 in disbursements and GST in the amount of $475.14, for a total supplemental claim of $9,977.84.

7.4 Views of Petro-Canada

Petro-Canada submitted that at least half of the legal fees claimed in the supplemental costs claim relate to the rehearing application, which was unnecessary and prolonged the hearing process resulting in additional costs to all parties. It submitted that the supplemental costs claim should be reduced by half.

7.5 Views of Pekisko Group

By correspondence dated July 27, 2010, the Pekisko Group confirmed it would not be making any further submissions.

7.6 Views of the Board

Wilson Laycraft

Having considered all of the foregoing, the Board finds most of the professional fees incurred by counsel for the Pekisko Group to be reasonable and necessary in light of the particular circumstances of this matter. The professional fees incurred were generally in line with the scope and nature of the proceeding and the submissions made by counsel for the Pekisko Group were of some assistance to the Board in its decision on the applications.

Having said that, the Board notes that the Pekisko Group's supplemental costs claim contains entries totaling 2.3 hours, which relate to the preparation for a claim for an award of costs. Pursuant to section 5.1 of *Directive 031A (August 2001)*, at pages 5 and 6, these costs are not generally considered reasonable and the Board declines to make an award for them.

As such, the Board hereby makes an award of costs to Wilson Laycraft for professional fees, disbursements, and expenses as follows:

Professional fees claimed	Professional fees awarded	Reduction	Disbursements and expenses claimed	Disbursements and expenses awarded	Reduction
$142,100.00	$141,525.00	$575.00	$3,109.93	$3,109.93	$0

Expert fees and expenses

Marc Tremblay and Richard Kennedy

Having considered all of the foregoing, the Board finds that the evidence given by these witnesses regarding, among other things, the results of a public opinion poll and animal health risk assessments generally was of only limited assistance to the Board in its decision on the applications. With regard to the evidence of Mr. Tremblay, the Board found it to be, among other things, narrow in scope and unhelpful in its decision on the applications. Accordingly, the Board makes no award of costs for the fees of Mr. Tremblay. As for Mr. Kennedy, while the Board in *Decision 2010-022* found his evidence to be generic in nature, the Board is of the view that his evidence was of some, albeit limited, assistance to it in its decision on the applications. Accordingly, the Board awards half of his claimed fees for his contribution to the proceeding,

As such, the Board hereby makes an award of costs to Wilson Laycraft for these experts' fees as follows:

	Professional fees claimed	Professional fees awarded	Reduction	Expenses claimed	Expenses awarded	Reduction
Mr. M. Tremblay	$1,750.00	$0	$1,750.00	$88.25	$0	$88.25
Mr. R. Kennedy	$28,500.00	$14,250.00	$14,250.00	$0	$0	$0

Intervener honoraria and expenses

Parties eligible to submit claims for local intervener costs as per *Decision 2008-029*

Having considered all of the foregoing, the Board finds that Mac Blades (Rocking P Ranch), Lorena Blades (Rocking P Ranch), Harvey Gardiner (Bluebird Valley Ranch), and Francis Gardiner (Mt. Sentinel Ranch) are all eligible to submit claims for awards of costs, pursuant to section 5.1 of *Decision 2008-029*, at pages 6 and 7.

The Board is also mindful of section 6.2.1 of *Directive 031A (August 2001)* which provides that up to four organizers may receive honoraria in recognition of their efforts for group organization, and that those awards are generally within the range of $300.00 to $500.00 per organizer. Section 6.2.1 goes on to state that in exceptional cases when the necessary preparation time is substantial, honoraria in excess of $500.00, up to a maximum of $2,500.00, may be considered.

In its September 27, 2009 submission, Petro-Canada submitted that Mr. Blades, Mr. Francis Gardiner, and Mr. Cartwright should all receive honoraria in the amount of $1,400.00, consistent with what Adderson had claimed. The Board agrees with this submission and will include these honoraria in the final cost award totals for each of these Interveners.

Regarding Mr. Blades' claimed honorarium and expenses, the Board makes an award of $1,400.00 in honoraria, as suggested by Petro-Canada. Pursuant to section 6.2.1 of *Directive 031A (August 2001)*, the Board exercises its discretion and awards Mr. Blades a further $1,000.00 for group organization, and $458.00 in expenses consisting of a meal on December 18, 2008, the day he attended and gave evidence as a witness in the proceeding, and mileage of $418.00 as suggested by Petro-Canada in its September 27, 2009 submission.

Regarding Mr. F. Gardiner's claimed honorarium and expenses; the Board makes an award of $1,400.00 in honoraria, as suggested by Petro-Canada, and expenses. Pursuant to section 6.2.1 of *Directive 031A (August 2001)*, the Board exercises its discretion and awards Mr. F. Gardiner $260.60 in expenses for a meal on December 18, 2008, the day he attended and gave evidence as a witness in the proceeding, and mileage of $220.60 as suggested by Petro-Canada in its September 27, 2009 submission.

Regarding Mrs. Blades' and Mr. Harvey Gardiner's claimed honoraria and expenses, pursuant to section 6.2.1 of *Directive 031A (August 2001)*, the Board exercises its discretion and awards Mrs. Blades and Mr. H Gardiner an award of $500.00 each for group organization. Mrs. Blades and Mr. H. Gardiner attended the hearing but did not give evidence, and accordingly, the Board declines to make an award for their claimed expenses.

	Honoraria claimed	Honoraria awarded	Reduction	Expenses claimed	Expenses awarded	Reduction
Mr. M. Blades	$2,500.00	$2,400.00	$100.00	$929.48	$458.00	$417.48
Mr. F. Gardiner	$2,000.00	$1,400.00	$600.00	$479.71	$260.60	$219.11
Mrs. L. Blades	$1,000.00	$500.00	$500.00	$225.00	$0	$225.00
Mr. H. Gardiner	$1,000.00	$500.00	$500.00	$1,555.78	$0	$1,555.78

Other parties and hearing participants

While none of the parties discussed below were found to be qualified to apply for local intervener costs in *Decision 2008-029*, these parties submitted cost claims through counsel for the Pekisko Group.

Regarding Mr. Cartwright's claimed honoraria and expenses, the Board makes an award of $1,400.00 in honoraria, as suggested by Petro-Canada. Pursuant to section 6.2.1 of *Directive 031A (August 2001)*, the Board exercises its discretion and awards Mr. Cartwright a further $1,000.00 for group organization, and $598.60 in expenses consisting of a meal on December 18, 2008, the day he attended and gave evidence as a witness in the proceeding, and mileage of $558.60 as suggested by Petro-Canada in its September 27, 2009 submission.

Regarding Mr. Lockton's claimed fees and expenses, the Board notes that Petro-Canada also suggested in its September 24, 2009 submission that Mr. Lockton should receive a $1,400.00 honorarium, consistent with what Adderson had claimed and with what it found to be acceptable for Mr. Blades and Mr. F. Gardiner. While this amount is larger than what Mr. Lockton has claimed in the Pekisko Group's September 8, 2009 cost claim, the Board is mindful of the travel expenses claimed for Mr. Lockton as well as the *Directive 031A (August 2001)* Scale of Costs amounts for hearing attendance fees and meals associated with his attendance at the hearing on the morning of January 21, 2009 for the purposes of giving evidence. The Board hereby makes an award to Mr. Lockton of $1,400.00 in honoraria.

Regarding Mrs. Cartwright's and Mr. Dayment's claimed honoraria and expenses, the Board notes that neither was found in *Decision 2008-029* to be qualified to apply for local intervener costs. Mrs. Cartwright attended the hearing but did not give evidence, and accordingly, the Board declines to make an award for her claimed honoraria and expenses. Mr. Dayment gave evidence at the hearing during the afternoon of January 20, 2009, and accordingly, the Board awards him $50.00 pursuant to section 6.2.3 of *Directive 031A (August 2001)* for his half day of attendance at the hearing for the purposes of giving evidence, and $50.00 in expenses for his meal and mileage that day.

	Honoraria claimed	Honoraria awarded	Reduction	Expenses claimed	Expenses awarded	Reduction
Mr. G. Cartwright	$2,500.00	$2,400.00	$100.00	$1,150.31	$598.60	$551.71
Mr. C. Lockton	$1,000.00	$1,400.00	+$400.00	$40.00	$0	$40.00
Mrs. W. Cartwright	$1,000.00	$0	$1,000.00	$792.32	$0	$792.32
Mr. L. Dayment	$2,500.00	$50.00	$2,450.00	$997.65	$50.00	$947.65

Summary of Costs Awarded

	Fees and Honoraria claimed	Fees and Honoraria awarded	Reduction	Expenses claimed	Expenses awarded	Reduction
Wilson Laycraft	$142,100.00	$141, 525.00	$575.00	$3,109.93	$3,109.93	$0
Mr. M. Tremblay	$1,750.00	$0	$1,750.00	$0	$0	$0
Mr. R. Kennedy	$28,500.00	$14,250.00	$14,250.00	$0	$0	$0
Mr. M. Blades	$2,500.00	$2,400.00	$100.00	$929.48	$458.00	$417.48
Mr. F. Gardiner	$2,000.00	$1,400.00	$600.00	$479.71	$260.60	$219.11
Mrs. L. Blades	$1,000.00	$500.00	$500.00	$225.00	$0	$225.00
Mr. H. Gardiner	$1,000.00	$500.00	$500.00	$1,555.78	$0	$1,555.78
Mr. G. Cartwright	$2,500.00	$2,400.00	$100.00	$1,150.31	$598.60	$551.71
Mr. C. Lockton	$1,000.00	$1,400.00	+$400.00	$40.00	$0	$0
Mrs. W. Cartwright	$1,000.00	$0	$1,000.00	$792.32	$0	$792.32
Mr. L. Dayment	$2,500.00	$50.00	$2,450.00	$997.65	$50.00	$947.65
TOTAL AMOUNTS AWARDED		$164,425.00			$4,477.13	

Amounts already paid to the Pekisko Group

Petro-Canada made an interim payment of funds to the Pekisko Group on January 27, 2010 in the amount of $48,480.90. This amount shall be subtracted from the final total amount awarded to the Pekisko Group.

8 STONEY NAKODA NATION

On September 8, 2009, the Stoney Nakoda Nation submitted a costs claim for legal fees in the amount of $428,624.00, expert fees in the amount of $1,010.10, honoraria in the amount of $3,500.00, expenses in the amount of $24,652.68 and GST in the amount of $30.34, for a total costs claim of $457,817.12.

8.1 Views of Petro-Canada

In its letter dated September 24, 2009, Petro-Canada stated that the costs claimed by the Stoney Nakoda Nation for legal fees exceeded those claimed by all of the other interveners, notwithstanding that it only called one witness at the hearing, Mr. Keith Lefthand, a consultation officer with the Bearspaw First Nation.

Petro-Canada submitted that claims for legal fees during the period of March 2008 to August 2009 were only marginally related to the hearing and that much of the time claimed related to ongoing disputes with provincial and federal governments.

Petro-Canada noted that the billing rates for Stoney Nakoda Nation counsel exceeded the rates approved by *Directive 031A (August 2001)*. Mr. Rae claimed an hourly rate between $325.00

and $335.00 per hour when the applicable rate is $250.00. Mr. MacLaren claimed an hourly rate between $175.00 and $185.00 per hour when the applicable rate is $140.00. Mr. Osvath claimed an hourly rate between $290.00 and $300.00 per hour when the applicable rate is $250.00. Ms. O'Driscoll has claimed for hourly rates between $175.00 and $185.00 per hour when the applicable rate is $140.00.

Petro-Canada submitted that the quantum of fees claimed by counsel for the Stoney Nakoda Nation was excessive and unreasonable. It noted that they claimed a total of 1,720.6 hours for a total of $428,624.00 in legal fees, whereas the total time spent by counsel for Adderson was less than 700 hours with fees in the range of $162,000.00. It stated there was no breakdown provided on the time dockets submitted by counsel for the Stoney Nakoda Nation so that it was impossible to determine the appropriateness of the time claimed for. Similarly, travel time was not broken down and it appeared as if it had been claimed for at full hourly rates.

In its letter dated September 24, 2009, at pages 3 and 4, Petro-Canada submitted a detailed list of items included in the time accounts and claimed as legal fees which appeared to be inappropriate charges, claimed on the following dates:

- April 15, 2008
- May 21, 2008
- June 11, 2008
- July 23, 2008
- August 18, 2008
- September 15, 2008
- October 20, 2008
- December 10, 2008
- January 20, 2009
- February 23, 2009
- July 29, 2009
- August 10, 2009

With regard to the legal expenses claimed by counsel for the Stoney Nakoda Nation, Petro-Canada noted that counsel for the Stoney Nakoda Nation claimed in excess of $15,000.00 for internal photocopying, while counsel for Adderson claimed approximately $3,300.00 and Carscallen approximately $1,500.00. Petro-Canada stated that in comparison, the Stoney Nakoda Nation's claim for internal photocopying expenses appeared excessive and unreasonable.

Petro-Canada submitted that the submissions of the Stoney Nakoda Nation did not contribute significantly to a better understanding of the issues before the Board, and as such, the legal fees claimed should be reduced from $433,134.10 to $144,378.03 and the disbursements claimed should be reduced from $24,683.00 to $8,277.67, which would more than adequately compensate them for the role they played in the hearing.

With regard to the fees and expenses of Mr. Tony Messer of Caliber Planning, Petro-Canada submitted that while it had advanced the Stoney Nakoda Nation with prehearing meeting costs of approximately $8,300.00 for this expert following the Board's letter of October 24, 2008, Mr. Messer was not called as a witness during the hearing. It pointed out that the decision by the Stoney Nakoda Nation to not call Mr. Messer at the hearing caused the Board to create a process which would allow him to provide information to the Board, as shown by the Board's letter to the Stoney Nakoda Nation of April 30, 2009. Because of the lateness in providing the information as well as Petro-Canada and the Board's lack of ability to cross examine or question this evidence, Petro-Canada submitted that it was of limited value to the Board, and no additional funds should be awarded for his fees. It also submitted that his claim for parking expenses should be denied as these expenses were not incurred during the course of the hearing.

With regard to honoraria and expenses for Mr. Lefthand, Petro-Canada submitted that he gave evidence for half a day and should be entitled to an honorarium of $1,400.00 which is consistent with the other honoraria it proposed for other attendees and witnesses. It submitted that the mileage claimed for Mr. Lefthand was at a rate above that allowed by *Directive 031A (August 2001)*. Additionally, it considered his mileage claim to be excessive, as the total amount of mileage claimed was 7,366 km, and would appear to be for time travelling back and forth to Calgary to meet with counsel, charges which should not be recoverable from Petro-Canada. It also submitted that his claim for parking expenses should be denied as these expenses were not incurred during the course of the hearing.

8.2 Views of the Stoney Nakoda Nation

With regard to legal fees, the Stoney Nakoda Nation stated they were the only interveners to present submissions at the hearing on aboriginal and treaty rights potentially impacted by the proposed project.

The Stoney Nakoda Nation noted that the legal regime governing its intervention is different from that which governed any other Intervener. The Stoney Nakoda Nation submitted a Notice of Question of Constitutional Law to the Board on June 20, 2008, and engaged Alberta and Canada regarding division of powers issues as part of the Board's hearing process. Only the Stoney Nakoda Nation had to respond to constitutional arguments submitted to the Board by Alberta and by Petro-Canada. It also petitioned the involvement of Health Canada due to the proposed project's location adjacent to the Eden Valley reserve, land which is owned by the Government of Canada.

The Stoney Nakoda Nation argued that communicating with 650 to 4000 clients requires more time and effort than does representing individual interveners. This included translating and information dissemination among community residents.

The Stoney Nakoda Nation submitted that *Directive 031: Guidelines for Energy Proceeding Cost Claims* and s. 57(2) of the *Rules of Practice* encourage intervening parties to cooperate, and that it expended efforts to minimize repetition of its examination, cross-examinations, and written submissions with those of other Interveners.

The Stoney Nakoda Nation submitted that all claimed fees were reasonable, directly and necessarily related to the proceedings, and cognizant of the importance of cost-effectiveness and efficiency.

With regard to the honoraria and expenses of Mr. Lefthand, the Stoney Nakoda Nation stated that his evidence regarding traditional practices engaged in by the Stoney Nakoda people potentially affected by the applications presented a perspective that was not addressed by Petro-Canada.

8.3 Supplemental Cost Claim of the Stoney Nakoda Nation

On December 22, 2009, the Stoney Nakoda Nation submitted a supplemental costs claim for legal fees and honoraria in the amount of $20,646.00 and expenses in the amount of $759.11, for a total supplemental costs claim of $21,405.11.

8.4 Views of Petro-Canada

On April 8, 2010 Petro-Canada provided a response to the supplemental cost claim.

With regard to legal fees, it submitted that while the invoices provided by counsel for the Stoney Nakoda Nation contained some backup in the nature of a brief description of the services allegedly provided, they did not provide a breakdown as to the amount of time spent on each entry, making it impossible to determine the appropriateness of the time spent in relation to each entry.

It stated that as per the rates in *Directive 031A (August 2001)*, the supplemental costs claimed for Mr. Rae should be reduced to $7,250.00, Mr. MacLaren to $6,916.00, Mr. Osvath to $1,000.00 and Carolyn O'Driscoll to $448.00. If the fees were claimed under the appropriate schedule, the total would be $15,614.00 as opposed to the $20,646.00 claimed.

It submitted that the material provided by the Stoney Nakoda Nation dated November 5, 2009 contained statements and allegations that were unsubstantiated by the evidence and did little to bring any additional value to the hearing process. The Stoney Nakoda Nation material dated December 8, 2009, in relation to the Big Loop Group rehearing application, was brief and added nothing to the process, and its Notice of Question of Constitutional Law material of the same date was similar to previous material and was unnecessary.

With respect to the invoice dated December 22, 2009, Petro-Canada observed that this invoice exceeded the total supplemental costs claim of Adderson, and that time had been claimed for preparation of the costs submission.

With respect to the invoice dated November 25, 2009, entries on the following dates appeared to be questionable:

- October 8, 2009
- October 14, 2009
- October 14, 2009
- October 20, 2009
- October 22, 2009
- October 23, 2009
- October 25, 2009
- October 27, 2009

With respect to the invoice dated October 19, 2009, significant time was claimed in relation to preparation of the costs claim. In addition, one entry on September 10, 2009, and two on September 25, 2009 appeared to be unrelated to the hearing process. Much of the invoice dated September 15, 2009 also appeared to relate to preparing the costs claim.

With regard to legal expenses, Petro-Canada opposed the disbursements for Alberta Justice in the amount of $71.00 and for Westlaw in the amount of $515.76. It further stated that internal photocopying charges for 1,172.5 pages appeared to be excessive.

8.5 Views of the Stoney Nakoda Nation

The Stoney Nakoda Nation provided a response dated May 5, 2010.

With respect to legal fees, it maintained that its legal fees submitted in its supplemental costs claim were reasonable. The Stoney Nakoda Nation submitted that the November 5, 2009 Notice of Question of Constitutional Law was essential to ensure the Stoney Nakoda Nation were not

precluded from arguing the matters contained therein in the event the rehearing applications were successful and the hearing reconstituted.

With respect to the invoice dated December 22, 2009, the Stoney Nakoda Nation submitted that, as its counsel represented over 4000 members of the Stoney Nakoda Nation, Petro-Canada's comparisons of their cost claim to the costs claims of other Interveners were unhelpful and misleading. With respect to the September 10 and 25, 2009 entries on the invoice dated October 19, 2009, these entries pertained to the jurisdiction of the Board and as such were justifiable costs.

Regarding legal expenses, the Stoney Nakoda Nation submitted that the internal photocopying costs claimed were in no way excessive in light of the number of individual members that comprise the Stoney Nakoda Nation.

8.6 Views of the Board

Legal Fees and Expenses/Disbursements

Having considered all of the foregoing, the Board finds some of the professional fees incurred by counsel for the Stoney Nakoda Nation to have been reasonable and necessary in light of the particular circumstances of this matter. While some of the submissions made by counsel for the Stoney Nakoda Nation were of assistance to the Board in its decision on the applications, the Board has also carefully considered the comments and concerns of Petro-Canada regarding the claimed legal fees and expenses. As a result, the Board finds that certain reductions to the legal fees and expenses of the Stoney Nakoda Nation are in order, and are detailed below.

The legal fees incurred by the Stoney Nakoda Nation were out of line with the scope and nature of the proceeding vis-à-vis the interests of the Stoney Nakoda Nation being represented, and were also not generally in line with the claims of the other Interveners in this proceeding, some of whom played a more active role than did the Stoney Nakoda Nation in terms of submissions and evidence both in written and in oral form, given both during the course of the proceeding as well as at the hearing of the applications. The Board notes that the Stoney Nakoda Nation called only one witness at the hearing, Mr. Lefthand, who gave his direct evidence and was questioned by Petro-Canada and the Board all within the course of the morning of January 20, 2009.

As can be seen above, the Board notes that, including both the initial and supplemental cost claim amounts, the Big Loop Group claimed $254,003.50 in legal fees and $9,042.55 in legal expenses, which included claims for the fees of five lawyers, four articling students, four law students, and two paralegals, as well as a claim of $1,596.50 in legal expenses for internal photocopying. Adderson claimed $161,694.00 in legal fees and $7,084.52 in legal expenses, which included claims for the fees of three lawyers, one articling student, and two paralegals, as well as a claim for $3,552.75 in legal expenses for internal photocopying. The Pekisko Group claimed $142,100.00 in legal fees and $3,109.93 in legal expenses, which included claims for the fees of one lawyer as well as a claim of $130.60 in legal expenses for internal photocopying. In contrast, the Stoney Nakoda Nation has claimed $449,270.00 in legal fees and $20,430.71 in legal expenses for four lawyers, including a claim of $15,226.50 for internal photocopying.

In terms of substantiating its claims for legal fees, the Board notes that the Stoney Nakoda Nation's cost claim dated September 8, 2009, included invoices containing time dockets for legal

fees incurred from March 12, 2008 to August 10, 2009, but that the invoices themselves contained no breakdown of how many hours or portions thereof were spent by each claiming lawyer on each time entry. General aggregate totals of hours spent by each lawyer during each billing period were included, but were of little assistance to the Board in its consideration of the Stoney Nakoda Nation's cost claim.

With regard to the submissions of the Stoney Nakoda Nation that its claim for legal time incurred due to the submission, argument in support, and other related matters regarding its Question of Constitutional Law (QCL) in the proceeding, the Board is mindful of the time and effort expended on the part of the Stoney Nakoda Nation relative to its QCL. The Board is also mindful of Petro-Canada's comments on this issue in its April 8, 2010 letter that some of the Stoney Nakoda Nations' materials and submissions in this regard were similar to materials it had previously filed and that some of these filed materials were unnecessary.

The Board also notes that the Stoney Nakoda Nation's claims for legal fees included claims for numerous time entries which do not appear to be related to the proceeding and the hearing of the applications, including, among others:

- Claims related to a benefits agreement and negotiations with Petro-Canada (Invoices dated August 18, 2008; September 15, 2008; and October 20, 2008),
- Claims related to letters to various Ministers (Invoices dated November 18, 2008; December 10, 2008; January 20, 2009; February 23, 2009; April 15, 2009; and July 29, 2009),
- Claims related to FOIP requests (Invoices dated December 10, 2008 and February 23, 2009),
- Claims related to a caveat and *lis pendens* (Invoices dated December 10, 2008; January 20, 2009; February 23, 2009; March 23, 2009; April 15, 2009; and July 29, 2009),
- Claims relating to communications with media representatives (Invoices dated February 23, 2009; July 29, 2009; and August 10, 2009),
- Claims relating to a drafting a bylaw for the Eden Valley reserve (Invoices dated April 15, 2009; June 23, 2009; July 29, 2009; and August 10, 2009),
- Claims related to Leave to Appeal proceedings or other proceedings in the Alberta Court of Appeal (Invoices dated May 25, 2009 and June 23, 2009) and
- Claims related to the June 19, 2009 closing of a sale on a condominium property (Invoice dated July 29, 2009).

The Board also notes that the Stoney Nakoda Nation submitted numerous claims related to the preparation of cost applications (cost claim invoices dated May 21, 2008; August 18, 2008; October 20, 2008; November 18, 2008; August 10, 2009; and supplemental cost claim invoices dated August 1-31, 2009; September 1-30, 2009; October 1-31, 2009, and December 1-23, 2009). As per section 5.1 of *Directive 031A (August 2001)*, costs relating to the preparation of the claim for an award of costs are not generally considered reasonable. The Board makes no award for these costs.

With regard to hourly rates, the Board notes that the hourly rate amounts claimed by counsel for the Stoney Nakoda Nation were not all based on the rates set out in the Scale of Costs in *Directive 031A (August 2001)*. Specifically, Mr. Rae claimed hourly rates of $325.00 and

$335.00 when *Directive 031A (August 2001)* provides that his rate should have been claimed at $250.00, Mr. Osvath claimed hourly rates of $290 and $300.00 when *Directive 031A (August 2001)* provides that his rate should have been claimed at $250.00, and Mr. MacLaren and Ms. O'Driscoll claimed hourly rates of $175 and $185 when *Directive 031A (August 2001)* provides that their rates should have been claimed at $140.00. None of these claims are in accordance with the Scale of Costs in *Directive 031A (August 2001)*. These claims for professional fees will be calculated as per the hours claimed, but in accordance with the prescribed hourly rates set out in *Directive 031A (August 2001)*. The prescribed hourly rates set out in *Directive 031A (August 2001)* result in the claim for the legal fees of the Stoney Nakoda Nation totaling $345,898.00, and it is this amount which the Board will use as the starting point for its consideration of the claim for legal fees.

With regard to the legal expenses claimed by the Stoney Nakoda Nation, the Board notes that while most of the expenses claimed by counsel for the Stoney Nakoda Nation were reasonable and necessary, in particular, its claim for internal photocopying expenses appears to be unreasonable and unnecessary in light of the particular circumstances of this matter. While the Stoney Nakoda Nation argued that representing and communicating with some 650 to 4000 clients requires more time and effort than does representing individual interveners, it provided no documentation or records in support of this argument, nor any explanation as to why it would be necessary for counsel for the Stoney Nakoda Nation to communicate individually with up to 4000 clients as opposed to these members receiving communications regarding these proceedings from Stoney Nakoda Nation representatives.

Overall, the material submitted by the Stoney Nakoda Nation in support of its cost claims was unhelpful to the Board and rendered its consideration of the claims very difficult.

Having considered all of the foregoing, the Board declines to award the Stoney Nakoda Nation its claimed legal fees and expenses, as the Board is not convinced that these were all reasonable and necessary in light of the particular circumstances of this matter. The Board hereby awards the Stoney Nakoda Nation forty percent (40%) of their claimed legal fees and expenses. The Board also orders a reduction in the claimed legal expenses of the Stoney Nakoda Nation in the amount of $12,000.00, as the Board finds the amount it claimed for internal photocopying to be excessive and wholly unsupported by any documentation.

As such, the Board hereby makes an award of costs to Rae & Company for professional fees, disbursements, and expenses as follows:

Professional fees claimed	Professional fees awarded	Reduction	Disbursements and expenses claimed	Disbursements and expenses awarded	Reduction
$345,898.00	$138,359.20	$207,538.80	$20,430.71	$8,430.71	$12,000.00

Honoraria and Expert Fees/Expenses

With regard to the fees and expenses of Mr. Messer, the Board finds that his written evidence regarding emergency planning and assessment was of little assistance to the Board in its decision on the applications. The Board made an award of advance funding in the amount of $8,300.00 to the Stoney Nakoda Nation for the purposes of retaining the services of Mr. Messer to assess the

emergency response plan of Petro-Canada. The Board finds that the written form of Mr. Messer's evidence was not only preventable in that he could have been called to give evidence at the hearing as contemplated by the award of advance funding, but was of limited value in that its written form lacked the benefits associated with the giving of live evidence and the testing of that evidence by means of live cross-examination. Accordingly, the Board finds that the advance funding award remains sufficient for the costs associated with Mr. Messer's contribution to the proceeding. As such, the Board hereby makes no further award of costs to Rae and Company for Mr. Messer's claimed fees and expenses.

Regarding Mr. Lefthand's claimed honoraria and expenses, the Board makes an award of $1,400.00 in honoraria, as suggested by Petro-Canada. Given that Mr. Lefthand gave his direct evidence and was questioned by Petro-Canada and the Board all within the course of the morning of January 20, 2009, the Board finds this amount is appropriate for his contribution to the proceeding.

As such, the Board hereby makes an award of $1,400.00 in costs to Rae and Company for Mr. Lefthand's honoraria. Accordingly, the awards of costs for Mr. Messer and Mr. Lefthand are as follows:

	Professional fees and honoraria claimed	Professional fees and honoraria awarded	Reduction	Disbursements and expenses claimed	Disbursements and expenses awarded	Reduction
Mr. T Messer (Caliber Planning)	$1,010.10	$0	$1,010.10	$606.83	$0	$606.83
Mr. K. Lefthand	$3,500.00	$1,400.00	$2,100.00	$4,374.25	$0	$4,374.25

Summary of Costs Awarded

	Professional fees and honoraria claimed	Professional fees and honoraria awarded	Reduction	Disbursements and expenses claimed	Disbursements and expenses awarded	Reduction
Rae and Company	$345,898.00	$138,359.20	$207,38.80	$20,430.71	$8,430.71	$12,000.00
Mr. T Messer (Caliber Planning)	$1,010.10	$0	$1,010.10	$606.83	$0	$606.83
Mr. K. Lefthand	$3,500.00	$1,400.00	$2,100.00	$4,374.25	$0	$4,374.25
TOTAL AMOUNTS AWARDED		$139,759.20			$8,430.71	

Amounts already paid to the Stoney Nakoda Nation

The Board made an award of advance funding to the Stoney Nakoda Nation in the amount of $9,300.00 on October 24, 2008. On January 15, 2010, Petro-Canada made an interim payment of funds to the Stoney Nakoda Nation in the amount of $114,454.28. These amounts shall be subtracted from the final total amount awarded to the Stoney Nakoda Nation.

9 ORDER

It is hereby ordered that:

1) The Board approves Intervener costs for the Big Loop Group in the amount of $253,168.31. The Big Loop Group received an award of interim funding on or about January 27, 2010 in the amount of $90,592.70. This payment is hereby subtracted from the awarded amount of $253,168.31, for a final total amount awarded of **$162,575.61.**

2) The Board approves Intervener costs for Adderson in the amount of $251,366.72. The Board made an award of advance funding to Adderson in the amount of $6,348.43 on June 17, 2008, and an award of interim funding to Adderson on December 15, 2009 in the amount of $65,000.00. These payments are hereby subtracted from the awarded amount of $251,366.72, for a final total amount awarded of **$180,018.29.**

3) The Board approves Intervener costs for the Pekisko Group in the amount of $176,846.38. The Pekisko Group received an award of interim funding on or about January 27, 2010 in the amount of $48,480.90. This payment is hereby subtracted from the awarded amount of $176,388.38, for a final total amount awarded of **$128,365.48.**

4) The Board approves Intervener costs for the Stoney Nakoda Nation in the amount of $148,189.91. The Board made an award of advance funding to the Stoney Nakoda Nation in the amount of $9,300.00 on October 24, 2008, and an award of interim funding to the Stoney Nakoda Nation on January 15, 2009 in the amount of $114,454.28. These payments are hereby subtracted from the awarded amount of $148,189.91, for a final total amount awarded of **$24,435.63.**

Dated in Calgary, Alberta, on May 24, 2011.

ENERGY RESOURCES CONSERVATION BOARD

<original signed by>

J. D. Dilay, P.Eng.
Presiding Member

<original signed by>

B.T. McManus, Q.C.
Board Member

APPENDIX A DIRECTIVE 031A - GUIDELINES FOR ENERGY COST CLAIMS (AUGUST 2001)

Directive 031A

Guidelines for Energy Cost Claims

June 2001

Superseded/Obsolete

GUIDE RENAMED AS A DIRECTIVE

As announced in *Bulletin 2004-02: Streamlining EUB Documents on Regulatory Requirements*, the Alberta Energy and Utilities Board (EUB) will issue only "directives," discontinuing interim directives, informational letters, and guides. Directives set out new or amended EUB requirements or processes to be implemented and followed by licensees, permittees, and other approval holders under the jurisdiction of the EUB.

As part of this initiative, this document has been renamed as a directive. However, no other changes have been made. Therefore, the document text continues to have references to "guides." These references should be read as referring to the directive of the same number. When this directive is amended, these references will be changed to reflect their renaming as directives.

Alberta Energy and Utilities Board

IMPORTANT MESSAGE ABOUT CLAIMS FOR LOCAL INTERVENERS' COSTS

DON'T BE LATE!

You may discuss your costs with the company, and it may agree to pay directly. If not, file your claim with the EUB, but note the 30-day time limit for filing.

Your claim must be received by the EUB within 30 days of the hearing, or if a meeting is held in place of a hearing, within 30 days of being notified of the Board's decision on the application. **IF YOUR CLAIM IS LATE, YOU MAY NOT BE AWARDED COSTS.** (See page 14 of this guide.)

QUALIFYING

Reasonable costs are usually awarded, but there is no guarantee that any or all of your costs will be awarded. First you must be qualified for costs (see page 1), and then only reasonable costs will be awarded. Further, all cost claims must comply with the *Scale of Costs*. (See pages 4-12.)

USE THE FORM

A properly completed form will speed up the process. (See page 12.)

QUESTIONS?

If, after you have consulted this guide, you have any questions about filing your claim, please call the EUB Law Branch at (403) 297-7029 for assistance. To call toll free, dial 310-0000 and then enter the 7-digit number to connect or press zero and hold for a RITE operator. Collect calls relating to cost claims will also be accepted.

Superseded by Insolvency

The guidelines contained within this guide, including the *Scale of Costs*, are effective August 1, 2001.

ALBERTA ENERGY AND UTILITIES BOARD
Guide 31A: Guidelines for Energy Cost Claims
June 2001 Incorporating correction to fax number on page 14 (May 2003)

Published by

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Superseded/Obsolete

1 Introduction

Informational Letter 2001-4 introduces this guide and is attached as Appendix A. In 1978 the Alberta Legislature recognized that persons who may be affected by proposed energy projects should be reimbursed for the costs of preparing and presenting an intervention at a public hearing convened by the Energy Resources Conservation Board, now the Alberta Energy and Utilities Board (EUB/Board). The Legislature amended the Energy Resources Conservation Act by adding Section 31 EUB/Board to define those persons who would be eligible for such reimbursement. Further, the Local Intervener's Costs Regulation was enacted to provide detailed guidance to interveners filing a cost claim. Section 31 has been amended since that time, and the current provision appears in Appendix B. On August 1, 2001, the Local Intervener's Costs Regulation was replaced by Part 5 of the *Rules of Practice*, which appears in Appendix C.

The EUB's experience with assessing cost claims has shown that interveners require

- a reasonable degree of certainty as to what costs will be judged acceptable for reimbursement;
- a realistic and up-to-date indication of acceptable costs; and
- certainty with respect to procedure.

This guide has been developed to meet these needs and to assist local interveners who wish to apply for an award of costs. It is designed to provide interested parties with a summary of the policies and procedures used by the EUB when considering claims for local intervener funding. The guide addresses such questions as

- What is a local intervener?
- Are local intervener's costs reimbursable if the EUB does not hold a hearing on a matter?
- May a local intervener apply for advance funding for an intervention?
- What costs may be claimed by a local intervener?
- How does a local intervener file a cost claim?
- When should a local intervener file a cost claim?
- How will the EUB assess a local intervener cost claim?
- What happens if an applicant fails to pay the costs in a reasonable time?
- Can a cost order of the Board be appealed?

Superseded / Obsolete

2 What Is a Local Intervener?

2.1 Definition

Only those persons determined by the Board to be "local interveners" are eligible to recover costs incurred for the preparation and presentation of an intervention at a public hearing before the Board. Section 31(1) of the Energy Resources Conservation Act defines the term "local intervener" as follows:

> 31(1) In this section, "local intervener" means a person or a group or association of persons who, in the opinion of the Board,

> (a) has an interest in, or
>
> (b) is in actual occupation of or is entitled to occupy
>
> land that is or may be directly and adversely affected by a decision of the Board in or as a result of a proceeding before it, but, unless otherwise authorized by the Board, does not include a person or group or association of persons whose business includes the trading in or transportation or recovery of any energy resource.

Section 31(1) establishes two criteria for determining local intervener funding. To be a local intervener, the intervener must demonstrate that

- the intervener has the necessary interest in land, and
- the land in question will or may be directly and adversely affected by the Board's decision on the proposed project.

In determining whether a claimant meets the first criterion, the Board has consistently decided that a claimant must show that he or she can claim a legal or formal right to occupy or use the land in question. In the Jumping Pound decision (*Decision 83-8*),[1] the Board stated that a claimant could establish an interest in land as required by Section 31 if he or she

- owns the land in question;
- has an agreement for sale in respect of land;
- is occupying or is entitled to occupy land, whether owned by the Crown or freehold (privately), providing the occupation is based on some legally enforceable right or claim; or
- is entitled to use land pursuant to a grazing lease, forest management lease, or some other similar agreement or arrangement allowing a particular use over an extended period of time.

In determining whether a claimant meets the second criterion, the Board, again in the Jumping Pound decision, provided the following test:

> Where a person claims land may be directly affected, the Board would require evidence by the intervener that the basis for the concern is a reasonable one. The Board will assess the reasonableness of the concern on the strength of the intervener in that regard, on the proximity of the land to the facility, on the evidence of the potential effect, and on other matters, which may be relevant....

The Board determines local intervener status on a case-by-case basis, considering a number of factors, including

- the nature of the proposed project;
- the size of the proposed project;
- the distance of the proposed project from the participant's land or lands;
- what reasonable concerns are associated with the proposed project;

[1] *Decision 83-8: Local Intervener Cost Hearing Respecting the Jumping Pound Gas Processing Plant, the Quirk Creek Gas Processing Plant, and the Proposed Moose and Whiskey Field's Pipeline Hearings*, June 30, 1983.

Superseded/Obsolete

- any other factors that the Board considers to be relevant with regard to the particular project; and
- how land or use of land may be directly and adversely affected by the project.

2.2 Advance Determination of Local Intervener Status

In situations where a potential intervener is unsure if he or she will qualify as a local intervener, a request may be made to the Board for an advance determination of local intervener status. Such a request should include a short written statement with the following details:

- the nature and location of the proposed project;
- the nature of intervener's interest in the land in question;
- the location of the land in question;
- how the land or use of the land may be directly and adversely affected by the project; and
- any other information that may be helpful to the Board in making its decision.

Sometimes the Board is unable to determine local intervener status until it has the opportunity to consider the evidence presented at a hearing. In such situations, the Board will advise applicants in a timely fashion that an advance determination cannot be made at that time.

Requests for advance determination of local intervener status, as well as any other questions about local intervener costs, should be directed to

Alberta Energy and Utilities Board
Law Branch
640- 5 Avenue S.W.
Calgary, AB T2P 3G4
Phone: (403) 297-7829
Fax: (403) 297-7031
E-mail: <eub.energycosts@eub.gov.ab.ca>

3 Are Local Intervener Costs Available if No Hearing Is Held?

The decision to award local interveners costs when no public hearing is held is within the discretion of the Board. The Board considers each claim on its own merits. Some of the factors that it considers include

- the nature of the disagreement or dispute between the applicant and the local intervener;
- the nature of the applicant's public consultation process;
- whether or not an application was filed for the proposed project;
- whether the costs incurred by the local intervener are reasonable, given the nature of the project proposed; and
- whether the costs incurred by the local intervener were directly and necessarily related to the issues in dispute.

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Claims for local intervener costs if no hearing is held should be filed with the EUB as soon as possible. If such a claim is being made in connection to a withdrawn application, the claim must be filed within 30 days of the date upon which the application was withdrawn. The EUB will not consider claims received after the 30-day period unless extraordinary circumstances prevented timely filing.

4 May a Local Intervener Apply for Advance Funding?

Advance funding is available for local interveners pursuant to Sections 31(6) of the Energy Resources Conservation Act and Section 50 of the *Rules of Practice*. In order to qualify for advance funding, however, an interested party must first establish local intervener status (as previously described in Section 2). Applicants for advance funding are required to supply the EUB with the following information:

- the name of the intervener;
- the mailing address of the intervener;
- the legal description of the land that the intervener claims an interest in;
- the name of the intervener's solicitor, if he or she is represented by counsel;
- the application number and name of the proceeding in question;
- a detailed budget that clearly outlines the expenses that the intervener reasonably expects to incur in the preparation and presentation of his or her intervention;
- if a lawyer, expert, or consultant is a necessary component of the intervention, a summary of the lawyer's, expert's, or consultants' expertise and a detailed description of the work they propose to do in support of their client's intervention; and
- reasons why the advance of funds is required.

Following the receipt of the above information, the Board will consider the intervener's request and provide its decision in a timely fashion. In some situations, however, determination as to local intervener status cannot be made until the Board has had the opportunity to consider an intervener's evidence at the hearing itself, and the request for advance funding will therefore be denied. However, an intervener may still be eligible for local intervener's costs even when his or her application for advance funding is denied.

All local intervener cost claims are reviewed and assessed by the Board following the proceeding. The Board wishes to emphasize that an award of advance funding in no way represents ultimate approval by the Board of the costs claimed. If the ultimate costs awarded are less than the advance funding received, the Board can direct conditions for the repayment of the difference.

5 What Are the Board's General Criteria for Assessing Costs?

When determining a local intervener cost award, the Board will recognize all those expenses incurred by the local intervener that it considers reasonable and directly and necessarily related to the preparation and presentation of the intervention. When assessing a claim for costs, the Board will have reference to Part 5 of the *Rules of Practice* and to its *Scale of Costs*.

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Section 55(1) of the *Rules of Practice* reads as follows:

(1) The Board may award costs to a participant if the Board is of the opinion that
  (a) the costs are reasonable and directly and necessarily related to the proceeding, and
  (b) the participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Board.

5.1 What Are "Reasonable" Costs?

There are no firm guidelines to identify in each case what type and what amount of costs will be reasonable. These matters must be assessed in the context of the particular proceeding for which the claim is made.

The applicant whose proposed development is the subject of a proceeding before the Board normally pays the costs awarded to an intervener. An applicant will be required to pay no more for the organization, preparation, and presentation of an intervention than is warranted by the nature, scope, and impact of the proposed development. While it is up to the intervener to decide the scope and complexity of his or her submission, the costs awarded will reflect what is judged by the Board to be reasonable and necessary in light of the particular circumstances.

It must be remembered that it is the Board's responsibility to determine whether it was reasonable to incur a particular type of cost and whether the amounts claimed are reasonable.

When deciding if a local intervener claim is reasonable, the Board is guided by Section 55(2) of the *Rules of Practice*. Generally, the Board reviews a cost claim to ensure that

- the costs claimed are reasonable and in line with the scope and nature of the proceeding, and
- the work performed by the intervener did not duplicate the work performed by other interveners.

A detailed discussion of what costs will be considered reasonable is located in Section 6.

The Board may deny a claim for costs, in whole or in part, if

- the Board did not hold a hearing on the matter, or
- the Board is not satisfied that the intervention was conducted economically.

A reasonable submission for cost purposes would not include arguments about things not being considered or not related to the application; arguments about matters already decided (e.g., arguing the need for a project when the need has been previously established); or arguments about government policy or legislative changes that should more properly be placed before the government or a Member of the Legislative Assembly.

Some examples of costs that might not be considered reasonable include

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- a study on a province-wide basis of an industry, such as the petrochemical industry, when the hearing is dealing with a particular plant;[2]
- a submission that a particular project should be denied because a policy or a law should be in place that would affect the project, when in fact no such policy exists;[3]
- a collection of a large volume of material, published or otherwise, with which the intervener is not familiar and which cannot be properly supported or clarified by witnesses at a hearing;
- a complaint about problems of improper cleanup of a well site in one part of Alberta when dealing with a well licence application elsewhere by a different company (complaints should be registered directly with the Board as soon as a problem becomes apparent);
- studies and expert consultation beyond the impact of a proposed project. For example, a well not producing hydrogen sulphide would not warrant evaluation of the impact of sour gas production;
- studies carried out on behalf of an intervener for other purposes, such as land-use or subdivision planning or evaluation, or property appraisal for compensation or sale;
- costs related to replacing solicitors or experts after preparation of a submission is started;
- costs related to more than one witness or expert dealing with the same or essentially similar material for the same intervener;
- costs that clearly exceed those normally paid for goods, materials, or services; and
- costs relating to the preparation of the claim for an award of costs by local interveners.

5.2 The *Scale of Costs*

The EUB's *Scale of Costs* details what fees and disbursements are eligible for reimbursement in relation to a party's participation in a proceeding before the Board. The *Scale of Costs* represents what is, in the opinion of the Board, a fair and reasonable tariff to provide a local intervener with adequate, competent, and professional assistance in making an effective submission before the Board. The *Scale of Costs* appears in Appendix D.

If a party can advance persuasive argument that the level of the tariff is inadequate given the complexity of the case, the Board may adjust the *Scale of Costs* to address such unique circumstances.

5.2.1 Professional Fees

The *Scale of Costs* provides a sliding scale for professionals on the basis that a professional's fees increase as he or she gains expertise. The Board emphasizes that the maximum allowable hourly rates are not awarded as a matter of course. Rather, the Board

[2] The study or submission might be reasonable for representation to government, or even to the EUB, which can consider it or bring it to the attention of government, but it might not be a reasonable cost to the applicant proposing a specific project.

[3] The Board must work within the existing legislative framework at the time of considering an application.

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assesses each claim upon its individual merits and only approves the maximum fee when it has been demonstrated that such a fee is warranted by the work performed.

5.2.2 Disbursements

The *Scale of Costs* details what disbursements are eligible for reimbursement. Again, the Board will direct reimbursement of only those disbursements that are, in the Board's opinion, reasonable and directly and necessarily related to the proceeding in question. The *Scale of Costs* also states what disbursements require backup receipts or invoices in order to be considered for reimbursement.

6 What Costs May Be Claimed by a Local Intervener?

The complexity of an intervention depends upon the nature of the proposed project and its potential impact on the local intervener in question. Generally, the costs awarded to a local intervener can be broken down into three components:

- the costs claimed for an individual intervener's efforts,
- the costs claimed for a lawyer's fees and expenses; and
- the costs claimed for a consultant's or expert's fees and expenses.

6.1 Costs for Individual Interveners

6.1.1 Costs for Preparing a Submission by an Intervener

A local intervener may choose to personally prepare and present his or her intervention to the Board without any outside help. This approach may be appropriate where the issues in conflict between the parties are straightforward and the local intervener is confident that he or she can adequately present an intervention to the Board without outside or professional assistance.

Letters or simple submissions that take a few hours to prepare may be adequate for an intervener's purposes and are not costly. However, an intervener who personally prepares a substantial submission without expert help may, depending upon the complexity of the submission, receive an honorarium in the range of $300 to $500. In very exceptional cases, and when the necessary preparation time is substantial, honoraria in excess of $500 to a maximum of $2500 may be considered. There must, of course, clearly be a need for any such substantial intervention.

Reasonable expenses incurred by an intervener and related to the preparation of a submission may be allowed, particularly if a complex submission is necessary. Such expenses could include

- stationery,
- postage,
- long-distance telephone calls,
- photocopying,

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- purchase of necessary documents,[4]
- typing of the submission,
- meeting room rental, and
- any other expenses that the EUB finds to be reasonable and directly and necessarily related to the preparation of the intervention.

If an individual intervener hires a lawyer to assist with the intervention and the lawyer is primarily responsible for the preparation of the intervention, the Board generally will not provide an honorarium to the individual for his or her preparation efforts. In situations where both the lawyer and the individual contribute substantially to the preparation of the intervention, the Board may consider an honorariun in recognition of the individual's efforts.

6.1.2 Costs of Appearing at a Public Hearing

Except when an intervener is represented by someone else and takes no active part in a public hearing, an intervener may normally recover some of the costs of appearing at a hearing. Appearing in support of an intervention refers to coming to the front when so requested by the Chairperson of the hearing and answering any questions about the intervention. Mere attendance is not participation. Participation may include giving evidence, being cross-examined, assisting counsel/consultants, and presenting closing argument. Such an intervener does not receive a witness fee, but could claim an honorarium of $50 for each half day[5] actually present at a hearing to listen to the evidence of others, question others, present an intervention, or confer with the intervener's own solicitor or expert.

Expenses related to an intervener's appearance at a public hearing might include

- necessary travel to and from the hearing by economic means of public transportation or at the current mileage rate, as described in the *Scale of Costs* for distances actually travelled;
- child care or babysitting costs;
- meal expenses for up to three meals per day at the current per diem rate; and
- lodging at normal motel or hotel rates at the current per diem rate when it is necessary to stay until the next day.

An intervener may choose to be assisted by a lawyer or an expert consultant if a more efficient submission would result. Depending on who does most of the work of preparing the submission, the intervener may not qualify for an honorarium. For further information on hiring lawyers or experts to assist with an intervention, see Section 6.3.

6.2 Costs for a Group of Interveners

If the issues in conflict are common to a number of local interveners, a group intervention is often appropriate. This approach allows those with common interests and purposes to

[4] Necessary documents might include parts of transcripts of previous relevant public hearings, but normally this is not necessary. Also, it is unnecessary to duplicate material provided by the applicant and available from it in its application.

[5] The noon break separates the two halves of the day of a public hearing.

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band together and present an intervention that addresses the group's common concerns. The formation of a group often results in a more balanced and complete intervention and reduces duplication of the information presented at the hearing. The EUB encourages interveners with similar issues to form such groups.

The reduction or avoidance of duplication is also important, as the Board may reduce the costs awarded to local interveners if it finds that they had similar concerns and shared a common purpose.

6.2.1 Costs for Group Organization

The EUB recognizes that the organization of a group of local interveners may require considerable time, effort, and expense on the part of the organizers who coordinate and represent the group. Depending upon the size of the group and the efforts required to organize it, one to four organizers may receive honoraria in recognition of their efforts. While such awards are generally $300 to $500, in exceptional cases when the necessary preparation time is substantial, honoraria in excess of $500 to a maximum of $2500 may be considered.

The Board will also consider claims for reasonable expenses related to the organization of a group. Such expenses could include

- rental of a meeting hall,
- photocopies,
- stationery,
- postage, and
- fax charges.

6.2.2 Costs of Preparing a Group Submission

When a substantial submission is prepared on behalf of a large group of interveners, up to four people who participated in the preparation of the submission without expert help may qualify for honoraria. Such awards are intended to recognize personal time and efforts and generally are in the amount of $300 to $500. In exceptional cases, honoraria in excess of $500, to a maximum of $2500, may be considered. There must be a clear need for any such substantial intervention.

An intervener group may choose to be assisted by a lawyer or an expert consultant if a more efficient submission would result. Depending on who does most of the work of preparing the submission, members of the intervener group may not qualify for an honorarium.

Reasonable expenses related to preparing a submission may be allowed, particularly if a complex submission is necessary. Such expenses could include

- stationery,
- postage,
- long-distance telephone calls,

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- photocopying,
- purchase of necessary documents, and
- typing of the submission.

6.2.3 Costs for Group Members Appearing at a Public Hearing

If a number of interveners form a group to present a submission without the assistance of a lawyer, one to four members of the group who are necessary to represent the group and present the submission may each receive an honorarium of $50 for each half day they are actually present at the hearing. The group may present a panel of up to six, including the representatives necessary to appear in support of their submission, and each may receive $50 for each half day of actual appearance.

If a number of interveners form a group to present a submission with the assistance of a lawyer, two representatives of the group may each receive an honorarium of $50 for each half day actually present at the hearing to work with the lawyer, even if the two representatives do not appear in support of the submission.

If the lawyer presents a panel of interveners as witnesses, the two representatives assisting the lawyer and up to six witnesses may each receive $50 for each half day during which it is necessary for them to actually appear in support of their submission.

6.3 Costs for Lawyers, Consultants, Experts, and Other Witnesses

If the issues to be decided at the public hearing are complex or technical, a local intervener or a local intervener group may choose to hire a lawyer, a consultant, or both to assist in the preparation and presentation of the intervention.

6.3.1 Costs for a Lawyer

Prior to hiring a lawyer, interveners should first determine how the lawyer's fees are to be paid. As the *Scale of Costs* provides a limit on the hourly rate to be considered in a claim for costs, it is important to know the lawyer's hourly rate prior to retaining counsel.

Some lawyers who appear before the Board agree with their client that they will accept as payment for their services that amount the Board awards after consideration of the intervener's cost claim. Other lawyers require that their full fees be paid regardless of the fees awarded or the maximum hourly rate prescribed by the *Scale of Costs*. As the second type of fee arrangement may result in the local intervener having to pay substantial legal costs out of his or her own pocket, it is important to understand the nature of the fee arrangement from the beginning of the lawyer-client relationship. The EUB does not have the jurisdiction to decide disputes between a lawyer and a client over legal fees. Any such disputes concern a private arrangement and may be resolved through the Taxing Officer at the Court of Queen's Bench.

All or a portion of a lawyer's legal fees may qualify for a local intervener's costs award. Additionally, the Board will consider the expenses or "disbursements" incurred by a lawyer representing a local intervener. It must be stressed, however, that the Board will consider only those fees and disbursements claimed by the lawyer that are determined to

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be reasonable and directly and necessarily related to the presentation and preparation of the intervention.

All cost claims submitted by a local intervener's lawyer should be supported by a copy of the lawyer's account and must include sufficient detail to demonstrate that all items billed were necessary and related to the application or proceeding. It is the EUB's position that the lawyer's hourly rate will include all overhead expenses, such as secretarial work. In certain situations, it may also be appropriate for a paralegal to work on an intervener's file. The Board will consider such claims only if it can be demonstrated that the work performed required the expertise of a paralegal and could not have been performed by a legal assistant.

6.3.2 Costs of Experts and Consultants

An intervener may choose to be assisted by one or more experts when preparing and presenting a submission at a public hearing. Those experts may be registered professionals, may carry on a consulting business, and/or may be expert in a certain field due to practical experience and/or specialized training.

Prior to hiring an expert or consultant, interveners should first determine how his or her fees are to be paid. As the *Scale of Costs* provides a limit on the hourly rate to be considered in a claim for costs, it is important to know the expert's or consultant's hourly rate prior to hiring.

For cost purposes, one expert should not duplicate the specialty and services of another for the same intervener. Further, an expert's assistance with a submission must be related to that person's expertise. A person may appear as an expert witness to support his or her report or submission. Normally, an expert need not attend the whole hearing.

Consultant or expert fees for preparing a submission or for appearing as a witness to support it should be at the hourly rate currently in effect and being used to bill clients. Personal service by an expert who does not normally engage in services for a fee should be at the current hourly rate or wage for someone trained and employed in the area of work that is of assistance to the intervener, e.g., irrigation technician, district agriculturist, or someone with knowledge in a special area of farming or ranching. A cost award would not be issued for personal services already remunerated by others in the form of hourly employment or regular salary.

Actual costs for associated services, such as typing or drafting, may qualify for a cost award if properly documented with a copy of the expert's account and sufficient detail to demonstrate that all items billed were necessary and related to the application or proceeding.

In addition to expert's fees, the Board will also consider claims for related hearing expenses, such as

- economical transportation or automobile travel to and from the hearing at the current rate approved by the *Scale of Costs*;
- meals, at the per diem rate approved by the *Scale of Costs*; and
- accommodation at the per diem rate approved by the *Scale of Costs*.

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Again, it is stressed that the Board will consider only those fees and disbursements claimed by an expert on behalf of an intervener client that conform to the *Scale of Costs* and are reasonable and directly and necessarily related to the presentation and preparation of the intervention. As such, it is important that local interveners finalize their fee arrangements with their experts and consultants before they agree to use their services. If the local intervener's lawyer hires the experts or consultants, the lawyer must inform the local intervener of the fee arrangement.

6.3.3 Costs of Other Witnesses

An intervener may find it necessary to support a submission with the testimony of a witness who has some especially relevant knowledge but is neither an intervener nor an expert. The attendance at a hearing of such a witness may qualify for a witness fee of $50 for each half day necessarily and actually present at a hearing to be available to appear as a witness on behalf of an intervener. Normally, such a witness would not attend the whole hearing.

7 From What Point in Time May Local Intervener Costs Be Claimed?

The EUB's usual practice (there are exceptions) is to acknowledge only those costs incurred after the EUB has issued a notice of hearing. It is generally the EUB's position that until a notice of hearing has been issued, there is no certainty that a hearing will be held. The EUB finds that in many cases the prenotice interactions between interveners and applicants relate to compensation matters and not public interest issues. The EUB recognizes, however, that it is sometimes necessary for local interveners to incur costs prior to the notice and that such costs may be reasonable and directly and necessarily related to the intervention in question.

Given the above, the EUB considers all claims for costs incurred prior to the notice of hearing on a case-by-case basis, including such factors as

- the nature of the disagreement or dispute between the applicant and the local intervener;
- the nature of the applicant's public consultation process;
- whether or not the applicant had filed an application with the EUB at the time the costs had been occurred;
- whether the costs incurred by the local intervener are reasonable given the nature of the project proposed; and
- whether the costs incurred by the local intervener were directly and necessarily related to the issues in dispute.

8 How Are Local Intervener Cost Claims Filed?

8.1 Cost Forms

In an effort to streamline and simplify the cost filing process, the EUB has developed a set of summary information forms (see Appendix E) that all claimants must complete and submit with every claim for costs. Claims filed that do not use these forms will not be considered. The forms are

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- Form E1 – Summary of Total Costs Claimed
- Form E2 – Summary of Professional Fees Claimed
- Form E3 – Summary of Intervener Honoraria Claimed
- Form E4 – Summary of Disbursements Claimed
- Form E5 – Affidavit of Fees and Disbursements Claimed

Sample completed forms appear in Appendix F.

These forms are also available on the EUB's Web site at <www.eub.gov.ab.ca>, as well as on a CD-ROM that includes the entire *Guides 31A and 31B*. (The CD is available from EUB Information Services: phone 403-297-8190; fax 403-297-7040.) Those accessing the cost forms through the Web site have three options for completing the forms:

- All forms except E5 may be downloaded as Microsoft Excel files. As claimants fill in the data indicated, all necessary calculations will be performed automatically.
- All forms may be downloaded in PDF format and filled in using Adobe Acrobat Reader. Claimants must fill in all columns and perform the necessary calculations on their own.
- All forms may be printed from the Web site and completed manually.

8.2 Affidavit of Fees and Disbursements

All local interveners are required to file an affidavit in support of their cost claim using Form E5. The affidavit may be signed by the intervener or his/her agent (lawyer, consultants, etc.). The affidavit is available as a PDF file that can be filled out using Adobe Acrobat Reader.

8.3 Preparing a Cost Claim

Local interveners should keep a record of all expenses, including receipts, related to the preparation and presentation of their intervention at the hearing. Such a record should be maintained whether the intervener is acting on his or her own behalf, in a group or with the assistance of a lawyer. The lawyer's or consultant/expert's account should include a detailed list of what services were performed for the intervener, as well as the amount of time spent carrying out each activity.

It is the obligation of the person claiming costs to support his or her claim and to establish that the costs claimed are reasonable and directly and necessarily related to the matters in conflict at the proceeding. The EUB requires that all those claiming local intervener's costs submit enough information to allow it to consider the claim in a fair and efficient manner.

When preparing a cost claim, an intervener must do the following:

- Fill in the necessary and relevant details on the summary cost information forms. Attach any additional information that may be required to complete the forms.
- Enclose with the forms and attachments all relevant supporting receipts, invoices, accounts, and other documents evidencing expenses incurred.
- If an expense is not self-explanatory, enclose an explanation of the expense.

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- If a request is being made for the Board to exercise its discretion to award an honorarium, the reasons for such a request should be clearly set out.
- When all the information, including the details listed above, is complete, the entire package must be provided to both the EUB and the applicant.

If the Board has not made an advance determination of local intervener status, it is important that local interveners include in their cost claims a submission that explains why they qualify as local interveners for the hearing in question.

8.4 Filing the Cost Claim

Unless otherwise directed by the Board, participants must file their cost claims within 30 days of the close of the proceeding for which the costs are claimed. This filing limitation period is clearly established by Section 53(3) of the *Rules of Practice*.

A proceeding is considered closed when the Board has heard or received final argument from all the participants involved in the hearing. The EUB will accept cost claims filed outside of the 30-day period only if the Board has given participants notice of its intention to extend the filing period.

Cost claims not received within the 30-day period will not be considered unless there are special circumstances. If, in the opinion of the Board, the circumstances cited do not justify the late filing of the claim, the Board will consider the claim withdrawn.

The summary forms and affidavit may be e-mailed directly to the EUB at <eub.energycosts@gov.ab.ca>. In addition to the e-mailed forms, claimants must also send paper copies to the EUB, attaching the necessary receipts and backup documentation, as described in the *Scale of Costs*.

Completed forms should be sent to the EUB

- by fax to (403) 297-7031
- by e-mail to <eub.energycosts@eub.gov.ab.ca>, or
- by courier or mail to

  Alberta Energy and Utilities Board
  640 – 5 Avenue SW
  Calgary, AB T2P 3G4
  Attention: Law Branch

9 How Does the Board Assess Local Intervener Cost Claims?

After the EUB and the applicant have received a cost claim, the applicant has the opportunity to respond within 14 days from the date that it received the cost claim. In an effort to avoid misunderstandings in that regard, the EUB generally sends a letter to all parties indicating the exact date by which the applicant's response is required.

If there are multiple interveners, the EUB may require the applicant to provide one universal response to all of the cost claims received within 14 days from the date upon which it received the last cost claim filed. Local interveners will be notified if such a situation arises.

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Once the local intervener has received the applicant's submission, he or she has one final opportunity to respond to the applicant's reply. This final response must be provided to the EUB and the applicant within 14 days from the date that it received the cost claim. Again, the EUB generally sends a letter to all parties indicating the exact date upon which the intervener's response is required, in an effort to avoid any misunderstandings.

When the cost claim is complete, including all supporting documentation, and the time for providing comments and replies has expired, the Board considers the claim in light of the particular application and renders its decision as soon as possible thereafter. If an award is made, the Board issues an order, which sets out

- the reasons for the award granted,
- the amount of the award,
- who shall pay it,
- to whom the payment shall be made, and
- a letter summarizing the breakdown of the award and the reasons for it.

If an intervener is represented by a lawyer, the EUB forwards the entire award to the lawyer, who will then distribute the funds according to the Board order.

10 May a Cost Order of the Board Be Appealed?

Interveners or applicants dissatisfied with a cost decision of the Board have two options. They may request the Board to review their claim pursuant to Section 58 of the *Rules of Practice*, or they may appeal the Board cost decision to the Alberta Court of Appeal pursuant to Section 44 of the *Energy Resources Conservation Act* or Section 20 of the *Alberta Energy and Utilities Board Act*.

A party wishing to review or appeal a cost decision of the Board must do so within 30 days of the date upon which they received the cost order. It is important to note that if a party wants the Board to review its decision prior to seeking an appeal, it is still necessary to seek leave to appeal within the 30-day period following receipt of the decision. The time within which a party must seek leave to appeal does not stop, pending a request for a review.

10.1 Cost Order Review Requests

Section 31 of the Energy Resources Conservation Act and Section 58 of the *Rules of Practice* govern the EUB's cost review process. After the EUB and the applicant have received a review request, the applicant is provided an opportunity to respond.

In order to trigger a review of a Board cost decision under Section 58 of the *Rules of Practice*, a local intervener must establish significant doubt as to the correctness of the Board's cost decision. The Board has adopted the position that such doubt must arise out of one of the following circumstances:

- The local intervener or review applicant presents new evidence, not known or available at the time evidence was first adduced and the decision was made, that may have been a determining factor in the Board's decision.

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- The local intervener or review applicant establishes that the Board's decision is based on an error of law or fact and that the correction of such an error would materially affect that decision.
- The local intervener or review applicant establishes that a correction of a clerical error or clarification of an ambiguity found within the Board's decision is required.
- The local intervener or review applicant establishes some other valid criterion for review that is relevant and particular to the case at hand.

If the review applicant cannot establish to the Board's satisfaction that he or she has met the above criteria, the Board will deny the review request. As such, it is important that review applicants address these criteria within their review submission.

10.2 Appeal of a Cost Order to the Alberta Court of Appeal

Both Section 44 of the Energy Resources Conservation Act and Section 20 of the Alberta Energy and Utilities Board Act allow appeals of Board decisions to the Alberta Court of Appeal. In order to successfully appeal a cost decision of the Board, the local intervener must demonstrate that the Board decision contains an error of jurisdiction or an error of law. As stated earlier, those seeking to appeal a cost order of the Board must seek leave to appeal within 30 days of their receipt of the decision in question.

11 How May Local Intervener Cost Awards Be Enforced?

11.1 The Need for Enforcement

It is the EUB's experience that the vast majority of cost orders are promptly paid by applicants. On rare occasions, however, an applicant will fail to comply with a cost order and it becomes necessary for both the intervener and the EUB to take steps to enforce the order. As the EUB's governing legislation allows parties affected by a cost order 30 days to request its review or appeal, the EUB recommends that no enforcement steps should occur until that time period has expired.

11.2 Registering the Judgement at the Court of Queen's Bench

Section 31(8) of the Energy Resources Conservation Act states:

> 8) A certified copy of an award of costs made under this section may be filed in the office of the clerk of the Court of Queen's Bench and, on filing and on payment of any fees prescribed by law, the order shall be entered as a judgement of the Court of Queen's Bench and may be enforced according to the ordinary procedure for the enforcement of a judgement of the Court.

Once registered as a judgement, the order may then be enforced under the Civil Enforcement Act. A local intervener who has registered the judgement pursuant to the Civil Enforcement Act then has several effective options for collecting the costs ordered. These include

- garnishing the applicant's bank accounts;
- garnishing the applicant's accounts receivable;
- seizure and sale of the applicant's property, including equipment; and
- seizure and sale of the applicant's land.

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Alberta Justice publishes a short booklet *Collecting Your Judgement in Alberta*, which is available free of charge from the Court of Queen's Bench. It provides step-by-step instructions on how to enforce a judgement in Alberta.

11.3 The EUB's "Enforcement Ladder"

The EUB considers an applicant that has failed to pay a cost order within 30 days of its issuance to be in noncompliance with a Board order and thus subject to the conditions of the EUB's Generic Enforcement Ladder. According to the Generic Enforcement Ladder and its definitions (*Informational Letter [IL] 99-4: EUB Enforcement Process, Generic Enforcement Ladder, and Field Surveillance Enforcement Ladder)*, this noncompliance clearly combines "demonstrated disregard and a failure to resolve issues as per requirements/expectations." This would mean the noncompliance is classified as "serious" and would result in Level 3 enforcement, which may include a suspension of operations at the site that was the subject matter of the hearing that gave rise to the cost order. If the cost order remains unpaid after the suspension of the project in question, the EUB will consider further enforcement steps, as described in *IL 99-4*.

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Appendix A Informational Letter 2001-4: EUB Revises Rules of Practice and Cost Policies for Energy and Utility Proceedings

June 27, 2001

To: All Interested Parties

EUB REVISES RULES OF PRACTICE AND COSTS POLICIES FOR ENERGY AND UTILITY PROCEEDINGS

This informational letter is to notify all interested parties that the EUB has revised its *Rules of Practice* concerning EUB energy and utility proceedings effective August 1, 2001. These revisions will help ensure fair and efficient proceedings by including provisions on prehearing meetings, hearings, information requests, technical meetings, settlement meetings, and the filing of written evidence. New energy and utility cost provisions are incorporated into the EUB's *Rules of Practice*, and a universal *Scale of Costs* is being adopted for both energy and utility proceedings.

This informational letter also introduces two new intervener funding guides – *Guide 31A: Guidelines for Energy Cost Claims*, and *Guide 31B: Guidelines for Utility Cost Claims*. These guides become effective August 1, 2001, and replace *Guide 31: Guidelines Respecting Applications for Local Interveners' Costs Awards* and the previous edition of the *Scale of Costs*. *Guide 31A* deals with intervener funding with respect to energy-related matters, while *Guide 31B* deals with applicant and intervener funding regarding utility matters.

Intervener funding is designed to permit persons or groups who may be directly and adversely affected by proposed applications to be reimbursed for reasonable costs in making an intervention. The changes update the cost awards to better reflect current economics. Another change is the availability of the new guides and the cost claims forms on the EUB Web site and on CD-ROM. This will help make the filing process easier and more efficient.

The Board believes that these revisions to its *Rules of Practice* and costs policies for energy and utility proceedings will help foster consistency in EUB proceedings and reflect Alberta's progressive and responsive regulatory framework.

Reasons for Changes and Stakeholder Consultation

There are three primary reasons for these initiatives:

- The previous *Rules of Practice* (based on the former Energy Resources Conservation Board *Rules of Practice* and the former Public Utilities Board *Rules of Practice*) and costs policies are outdated.
- There is a need to bring conformity and consistency to all proceedings before the EUB.
- There is a need to document and communicate currently existing practices.

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An important principle underlying all EUB-sponsored regulatory change is consulting with stakeholders and affected parties. The EUB's review of its *Rules of Practice* and costs policies and procedures for its energy and utility proceedings has been comprehensive and consultative and dates back to the fall of 1999. This is illustrated through

- issuance of *General Bulletin (GB) 99-18: Stakeholder Consultation Discussion Papers for the Review of Cost Procedures for Energy and Utility Proceedings*,
- issuance of *GB 99-22: Stakeholder Consultation Discussion Papers for the Review of Costs Procedures for Energy and Utility Proceedings Extension of Deadline for Filing of Submissions to 31 January 2000*,
- issuance of *GB 2000-10: Stakeholder Consultation on Draft EUB Rules of Practice for Energy and Utilities Proceedings*, which announced the placing of draft *Rules of Practice* on the EUB Web site and invited feedback,
- two EUB-sponsored public workshops held in Calgary, Alberta, in June 2000 to discuss cost policy issues and to obtain additional responses from interested parties, and
- issuance on April 9, 2001, of *GB 2001-10: Update on Revisions of EUB Rules of Practice and on Review of Intervener Funding for Energy and Utilities Proceedings*.

Rules of Practice and New Guides

The revised EUB *Rules of Practice* comprises six main parts:

1) General Matters
2) Commencement of Proceedings
3) Hearings
4) Review and Rehearing
5) Costs
6) Repeals and Expiry

Guide 31A and *Guide 31B* provide detailed information concerning Part 5 of the *Rules of Practice* and have been developed and published separately in acknowledgement of some of the inherent differences particular to energy and utility proceedings.

Despite some differences in energy and utility proceedings, it has been the EUB's common experience when assessing cost claims that interveners require

- a degree of certainty as to what costs will be judged acceptable for reimbursement,
- a realistic and up-to-date indication of acceptable costs, and
- certainty with respect to procedure.

The new intervener funding guides address these needs, and each guide includes the new *Scale of Costs*. The new *Rules of Practice* and *Guide 31A* and *Guide 31B* are available on the EUB Web site <www.eub.gov.ab.ca> or in paper format from EUB Information Services in Calgary or Edmonton.

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EUB Expectations

The EUB expects all applicants, legal counsel, and other participants in EUB proceedings to thoroughly familiarize themselves with these important documents. To assist, the EUB Law Branch will hold public workshops and offer speakers to make presentations to meetings, community open houses, or other appropriate forums. Should such assistance be desired, please contact the EUB Law Branch representatives noted below.

EUB Contacts

A backgrounder with some relevant "questions and answers" is attached to provide further information. For other questions or clarifications regarding the revised EUB *Rules of Practice*, contact Ms. Giuseppa Bentivegna, EUB Law Branch, at (403) 297-8332 or by e-mail at <giuseppa.bentivegna@gov.ab.ca>. For other questions or clarifications regarding *Guide 31A* or *Guide 31B*, contact Mr. J. P. Meusseau, EUB Law Branch, at (403) 297-3488 or by e-mail at <eub.energycosts@eub.gov.ab.ca> or <eub.utilitycosts@eub.gov.ab.ca>.

Brad McManus, Q.C.
Board Member

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Appendix B Section 31 of the Energy Resources Conservation Act

31 **(1)** In this section, "local intervener" means a person or a group or association of persons who, in the opinion of the Board,

(a) has an interest in, or

(b) is in actual occupation of or is entitled to occupy

land that is or may be directly and adversely affected by a decision of the Board in or as a result of a proceeding before it, but, unless otherwise authorized by the Board, does not include a person or group or association of persons whose business includes the trading in or transportation or recovery of any energy resource.

(2) On the claim of a local intervener or on the Board's own motion, the Board may subject to terms and conditions it considers appropriate make an award of costs to a local intervener.

(3) Where the Board makes an award of costs under subsection (2), it may determine

(a) the amount of costs that shall be paid to a local intervener, and

(b) the persons liable to pay the award of costs.

(4) The local intervener or a person who is determined by the Board to be liable to pay the costs awarded may request that the Board conduct a review of the award of costs.

(5) Where the Board conducts a review of the award of costs, the Board may

(a) vary the award of costs,

(b) refuse to vary the award of costs, or

(c) deny the award of costs.

(6) If in the Board's opinion it is reasonable to do so, the Board may make an advance of costs to a local intervener and it may direct any terms and conditions for the payment or repayment of the advance by any party to the proceeding that the Board considers appropriate.

(7) The Board may make regulations respecting

(a) the awarding of costs,

(b) the making of advances of costs,

(c) the liability of persons to pay costs, and

(d) the review of costs awarded.

(8) A certified copy of an award of costs made under this section may be filed in the office of the clerk of the Court of Queen's Bench and, on filing and on

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payment of any fees prescribed by law, the order shall be entered as a judgment of the Court and may be enforced according to the ordinary procedure for enforcement of a judgment of the Court.

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Appendix C Part 5 of the *Rules of Practice*

PART 5
COSTS

Costs

49 In this Part,

(a) "costs order" means an order of the Board awarding costs on a claim for costs;

(b) "energy proceeding" means a proceeding conducted under the *Energy Resources Conservation Act*;

(c) "guidelines" means

(i) for the purposes of costs in an energy proceeding, *Guide 31A, Guidelines for Energy Cost Claims*, as amended from time to time, published by the Board, and

(ii) for the purposes of costs in a utilities proceeding, *Guide 31B, Guidelines for Utility Cost Claims*, as amended from time to time, published by the Board;

(d) "participant" means

(i) for purposes of costs in an energy proceeding, a local intervener as defined in section 31 of the *Energy Resources Conservation Act*, and

(ii) for purposes of costs in a utilities proceeding, an applicant or intervener;

(e) "scale of costs" means the *Alberta Energy and Utilities Board Scale of Costs*, as amended from time to time, published by the Board;

(f) "utilities proceeding" means a proceeding conducted under the *Electric Utilities Act* or *Public Utilities Board Act*.

Advance of funds request

50(1) A participant who intends to take part in a proceeding may, at any time during the proceeding, make a request to the Board for an advance of funds in accordance with the guidelines.

(2) The Board may award an advance of funds to a participant if the participant demonstrates a need for financial assistance to address relevant issues in the proceeding.

(3) If the Board awards an advance of funds to a participant under subsection (2), the Board may

(a) advance the funds to the participant and

(i) set out the terms for repayment of the advance to the Board by the participant, or

(ii) direct the applicant to reimburse the Board for the funds advanced to the participant,

or

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(b) direct the applicant to advance funds to the participant and set out the terms for repayment of the advance to the applicant by the participant.

Budget to be filed

51 The Board may, at any time during a proceeding, require a participant to file a budget of the participant's anticipated costs in the proceeding in accordance with the guidelines.

Interim awards

52(1) A participant may apply to the Board for an award of interim costs incurred in a proceeding by filing an interim costs claim in accordance with the guidelines.

(2) A participant may only claim interim costs in accordance with the scale of costs.

(3) The Board may award interim costs to a participant if the Board is of the opinion that

(a) the costs are reasonable and directly and necessarily related to the proceeding,

(b) the proceeding in which interim costs are claimed is lengthy, and

(c) the participant has demonstrated a need for financial assistance to continue to address relevant issues in the proceeding.

(4) If the Board awards interim costs to a participant under subsection (3), the Board may

(a) pay the interim costs to the participant and

(i) set out terms for repayment of the interim costs to the Board by the participant if the Board varies or denies costs on a claim for costs filed by the participant at the close of the proceeding, or

(ii) direct the applicant to reimburse the Board for the interim costs paid to the participant,

or

(b) direct the applicant to pay the interim costs to the participant and set out terms for repayment of the interim costs to the applicant by the participant if the Board varies or denies costs on the claim for costs filed by the participant at the close of the proceeding.

Costs claim

53(1) A participant may apply to the Board for an award of costs incurred in a proceeding by filing a costs claim in accordance with the guidelines.

(2) A participant may only claim costs in accordance with the scale of costs.

(3) Unless otherwise directed by the Board, a participant shall

(a) file a claim for costs within 30 days after the proceeding is closed, and

(b) serve a copy of the claim on the other participants.

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(4) An applicant may, in a utility proceeding, submit as part of the applicant's claim for costs a request to the Board to record in the applicant's hearing costs reserve account costs that are reasonable and directly and necessarily related to the proceeding.

(5) After receipt of a claim for costs, the Board may direct the participant who filed the costs claim to file additional information or documents with respect to the costs claimed.

Comments on costs claim

54(1) Unless otherwise specified by the Board, in an energy proceeding,

(a) within 14 days of the deadline for the filing of a costs claim referred to in section 53, the applicant in the proceeding to which the costs relate shall file and serve on the participant who filed the costs claim a submission detailing any questions and comments on the costs claimed, and

(b) within 14 days of the receipt of the applicant's comments under clause (a), the participant shall file and serve on the applicant a reply respecting those comments.

(2) Unless otherwise specified by the Board, in a utilities proceeding,

(a) within 14 days of the receipt of a summary of costs prepared by the Board from the costs claims submitted by one or more of the participants, each participant shall file and serve on the other participants a submission detailing any questions and comments on the summary of costs, and(b)within 14 days of the receipt of the comments from one or more participants under clause (a), each participant shall file and serve on the other participants a reply respecting those comments.

Costs award

55(1) The Board may award costs, in accordance with the scale of costs, to a participant if the Board is of the opinion that

(a) the costs are reasonable and directly and necessarily related to the proceeding, and

(b) the participant acted responsibly in the proceeding and contributed to a better understanding of the issues before the Board.

(2) In determining the amount of costs to be awarded to a participant, the Board may consider whether the participant did one or more of the following:

(a) asked questions on cross-examination that were unduly repetitive of questions previously asked by another participant and answered by that participant's witness;

(b) made reasonable efforts to ensure that the participant's evidence was not unduly repetitive of evidence presented by another participant;

(c) made reasonable efforts to cooperate with other participants to reduce the duplication of evidence and questions or to combine the participant's submission with that of similarly interested participants;

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(d) presented in oral evidence significant new evidence that was available to the participant at the time the participant filed documentary evidence but was not filed at that time;

(e) failed to comply with a direction of the Board, including a direction on the filing of evidence;

(f) submitted evidence and argument on issues that were not relevant to the proceeding;

(g) needed legal or technical assistance to take part in the proceeding;

(h) engaged in conduct that unnecessarily lengthened the duration of the proceeding or resulted in unnecessary costs;

(i) failed to comply with this Part.

Liability for costs

56 Unless the Board otherwise directs,

(a) in a proceeding that relates to a specific licensee, operator or approval holder, the licensee, operator or approval holder shall pay the costs awarded to a participant, and

(b) in a proceeding that relates to policies or concerns respecting the exploration, processing, development or transportation of energy resources or to policies or concerns respecting utilities in general, the Board may pay the costs awarded to a participant.

Costs order

57(1) Where the Board has awarded costs in a proceeding, the Board shall issue a costs order setting out the amount awarded and to whom and by whom the payment must be made.

(2) The Board shall serve a copy of the costs order on the participant making the claim and on the applicant.

(3) An applicant named in a costs order shall pay the amount awarded to the participant within 30 days of being served with a copy of the costs order under subsection (2).

(4) A costs order issued in a utility proceeding may state whether an applicant named in the order is authorized to record the costs in its hearing costs reserve account.

Review request

58(1) A party to a costs order may, within 30 days of the date of service of the order, apply to the Board for a review of the order.

(2) An application for a review of a costs order must be made in accordance with section 46.

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Appendix D *Scale of Costs*

The *Scale of Costs* represents a fair and reasonable tariff to provide any interested party with adequate, competent, and professional assistance in making an effective submission before the Board. In a case where a party can advance persuasive argument that the scale of consumer or applicant contribution is inadequate given the complexity of the case, the Board may award an amount greater than stated in the *Scale of Costs* to address such unique circumstances.

1 Professional Fees

The *Scale of Costs* provides a sliding scale for professional fees on the basis that as the professional's experience increases, so will his or her value and wage. The Board emphasizes that the maximum allowable hourly rates will not be awarded as a matter of course. Rather, the Board will assess each claim upon its individual merits and will only approve the maximum fee when it has been demonstrated that such a charge is warranted by the work performed. The Board allows professionals only half of their hourly rate for travel time.

Legal Fees

Paralegal	$65.00/hour
Articling Students	$90.00/hour
1-4 years at the bar	$140.00/hour
5-7 years at the bar	$180.00/hour
8-12 years at the bar	$220.00/hour
More than 12 years at the bar	$250.00/hour

Legal fees are deemed to include and cover all overhead charges implicit in the normal operation of a law firm. The Board will not consider fees for secretarial work. In certain situations, it may also be appropriate for a paralegal to work on the application or intervention. The Board will consider such claims only if it can be demonstrated that the work performed required the expertise of a paralegal and could not have been performed by a legal assistant.

Consultants', Analysts', and Experts' Fees

Secretarial/ support staff	$45.00/hour
1-4 years' experience	$100.00/hour
5-7 years' experience	$140.00/hour
8-12 years' experience	$210.00/hour
More than 12 years' experience	$250.00/hour

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The Board recognizes that the above professionals may not include the costs of secretarial work in their fees and thus may recognize a claim for secretarial or clerical services. The Board will not recognize, however, claims for overhead based upon percentages of the fees or disbursements claimed.

2 Disbursements

Office Disbursements

The Board will consider claims for the following office disbursements incurred throughout the participant's involvement in the proceeding:

- courier charges
- long-distance telephone calls
- photocopies ($0.10/page)
- fax ($1.00/page)
- computer charges
- postage
- transcripts (must be accompanied by a receipt)

The Board does not require claimants to submit receipts for the above disbursements (other than transcripts) with their initial cost claims. Claimants should, however, retain receipts for such disbursements, as the Board will require their submission if the claim is selected for audit. Office disbursements other than those listed above may be listed as miscellaneous with a short explanation of the expenses claimed attached.

Personal Disbursements

The Board will consider claims for the following personal disbursements that are incurred during the hearing phase of the proceeding.

Meals

The maximum allowable claim for meals is $40.00 per day ($10.00 for breakfast, $15.00 for lunch and dinner). Claims for meals are restricted to the hearing phase of a proceeding. Tips are not claimable. No receipt is necessary for meal expenses.

Accommodation

The maximum allowable claim for accommodation is $140.00 per day. Receipts must accompany all claims for accommodation. Claims for accommodation are restricted to the hearing phase of a proceeding.

Travel

The Board's mileage rate for automobile travel is $0.30/km (including GST). This portion of a claim is restricted to intercity travel distances of 50 km or greater.

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The Board will recognize claims for airfare at economy rates or less. Claims for airfare must be accompanied by a receipt supporting the claim. Claims for airfare are restricted to the hearing phase of the proceeding.

Taxi

Such claims are restricted to the hearing phase of the proceeding. Claims for the above disbursement need not be accompanied by a receipt. Tips are not claimable. Claimants should, however, retain such receipts in the event that the Board directs an audit of the claim.

Parking

Such charges are restricted to the hearing phase of the proceeding. Claims for the above disbursement need not be accompanied by a receipt. Tips are not claimable. Claimants should, however, retain such receipts in the event that the Board directs an audit of the claim.

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Superseded/Obsolete

Appendix E Cost Forms

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EUB Alberta Energy and Utilities Board

Date _____

Summary of Total Costs Claimed

Form E1 - Page 1 of 1

Intervenor/Lawyer/Expert	Total Fees/Honoraria Claimed	Total Disbursements/ Expenses Claimed	Total GST claimed	Total Claimed
TOTAL				

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Claimant _____

Agent/Representative _____

Address _____

Phone _____ Fax _____

E-mail _____

Applicant(s) _____

Application(s) No. _____

Hearing _____

LAW-E1-2001-06

EUB Alberta Energy and Utilities Board

Summary of Professional Fees Claimed

Form E2 - Page 1 of 2

Date _____

	PROFESSIONAL FEES										GST	Total
	Years of Experience	Hourly Wage	Preparation Hours	Preparation Fees	Attendance Hours	Attendance Fees	Argument & Reply Hours	Argument & Reply Fees	Total Fees Hours	Total Fees Fees	Total GST on Professional Fees	Fees & GST
FIRM/COMPANY NAME												
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Total This Company			0.00	$0.00	0.00	0.00	0.00	$0.00	0.00	$0.00	$0.00	$0.00
FIRM/COMPANY NAME												
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Total This Company			0.00	$0.00	0.00	0.00	0.00	$0.00	0.00	$0.00	$0.00	$0.00

Supplied on Order

Claimant _____ Applicant(s) _____

Hearing _____ Application(s) No. _____

EUB Alberta Energy and Utilities Board

Summary of Professional Fees Claimed

Form E2 - Page 2 of 2

Date _____

	PROFESSIONAL FEES										GST	Total
	Years of Experience	Hourly Wage	Preparation Hours	Preparation Fees	Attendance Hours	Attendance Fees	Argument & Reply Hours	Argument & Reply Fees	Total Fees Hours	Total Fees Fees	Total GST on Professional Fees	Fees & GST
FIRM/COMPANY NAME												
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Total This Company			0.00	$0.00	0.00	0.00	0.00	$0.00	0.00	$0.00	$0.00	$0.00
FIRM/COMPANY NAME												
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Individual Name				$0.00		$0.00		$0.00	0.00	$0.00		$0.00
Total This Company			0.00	$0.00	0.00	0.00	0.00	$0.00	0.00	$0.00	$0.00	$0.00
TOTAL PROFESSIONAL FEES CLAIMED			0.00	0.00	0.00	$0.00	0.00	$0.00	0.00	$0.00	$0.00	$0.00

Claimant _____ Applicant(s) _____

Hearing _____ Application(s) No. _____

EUB Alberta Energy and Utilities Board

Summary of Intervener Honoraria Claimed

Form E3 - Page 1 of 1

Date _____

Intervener's/Group Name	Preparation Honoraria	Attendance Honoraria	Forming a Group	Total Honoraria Claimed
TOTAL	$0.00			

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Claimant _____ Applicant(s) _____

Hearing _____ Application(s) No. _____

EUB Alberta Energy and Utilities Board

Summary of Disbursements Claimed
Form E4 - Page 1 of 2

Date _____

Disbursements Claimed (exclusive of GST)	Name of Claimant	Name of Claimant	Name of Claimant	Name of Claimant	Total Disbursements
Airfare					$0.00
Accommodation (maximum $140/day + provincial hotel tax)					$0.00
Meals (maximum $40/day)					$0.00
Mileage ($.30/km)					$0.00
Taxi					$0.00
Parking					$0.00
Car rental					$0.00
Transcripts					$0.00
Postage					$0.00
Courier/delivery					$0.00
Telephone/long distance					$0.00
Fax ($1.00/page)					$0.00
Internal photocopying ($.10/copy)					$0.00
External printing					$0.00
Miscellaneous (please attach details)					$0.00
Miscellaneous (please attach details)					$0.00
Miscellaneous (please attach details)					$0.00
Miscellaneous (please attach details)					$0.00
TOTAL DISBURSEMENTS	$0.00	$0.00	$0.00	$0.00	$0.00
Total GST on Disbursements					$0.00

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Claimant _____ Applicant(s) _____

Hearing _____ Application(s) No. _____

Alberta Energy and Utilities Board 640 5 Avenue SW Calgary, Alberta Canada T2P 3G4

EUB Alberta Energy and Utilities Board

Summary of Disbursements Claimed

Form E4 - Page 2 of 2

Date _____

Disbursements Claimed (exclusive of GST)	Name of Claimant	Name of Claimant	Name of Claimant	Name of Claimant	Total Disbursements
Airfare					
Accommodation (maximum $140/day + provincial hotel tax)					
Meals (maximum $40/day)					
Mileage ($.30/km)					
Taxi					
Parking					
Car rental					
Transcripts					
Postage					
Courier/delivery					
Telephone/long distance					
Fax ($1.00/page)					
Internal photocopying ($.10/copy)					
External printing					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
TOTAL DISBURSEMENTS	$0.00				
Total GST on Disbursements					

Superseded/Obsolete

Claimant _____ Applicant(s) _____

Hearing _____ Application(s) No. _____

Alberta Energy and Utilities Board 640 5 Avenue SW Calgary, Alberta Canada T2P 3G4

Attachment to Form E4

June Wilmore

Claim for (specify details)	22.00
Claim for (specify details)	45.00

Trudy Frank

Claim for (specify details)	55.00

Bill Smith

Claim for (specify details)	127.00

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EUB Alberta Energy and Utilities Board

AFFIDAVIT OF FEES AND DISBURSEMENTS
Form E5

AFFIDAVIT OF FEES AND DISBURSEMENTS CLAIMED IN THE MATTER OF A CLAIM FOR COSTS MADE BY _____ FOR PARTICIPATION IN A PROCEEDING BEFORE THE ALBERTA ENERGY AND UTILITIES BOARD WITH RESPECT TO APPLICATION(S) NO._____

I, _____, of the (city/town) of _____ and the Province of _____, MAKE OATH (OR AFFIRM) AND SAY THAT:

1) I am the_____ of the cost claimant _____ (the "Claimant") and as such have personal knowledge of the matters hereinafter deposed to, except where stated to be based on information and belief, and where so stated, I do verily believe to be true.

2) The Claimant was an intervener in a proceeding (the "Proceeding") before the Board with respect to the above application(s).

3) The Claimant incurred fees and disbursements (exclusive of GST) in the amount of $_____ as a result of its participation in the Proceeding. Additionally, the Claimant incurred GST on the above fees and disbursements in the amount of $_____.

4) I have personally reviewed the accounts of the Claimant's (lawyer(s), consultant(s), witness(s)), including the supporting documentation as required by the *Scale of Costs*, and confirm that these accounts represent work performed at the specific request of the Claimant.

5) I have personally reviewed all receipts, invoices, or accounts for transcripts, airfare, or accommodation and confirm that they represent disbursements incurred at the specific request of the Claimant.

6) I confirm that the fees and disbursements claimed on behalf of the Claimant's lawyer(s), expert(s), or consultant(s) are reasonable and in accordance with the EUB's *Scale of Costs*.

7) (if necessary) The fees claimed on behalf of _____ are in excess of the EUB's *Scale of Costs*. However, I believe that the Claimant should be entitled to recover such costs because _____

8) To the best of my knowledge and belief, the fees and disbursements claimed by the Claimant represent fees and disbursements incurred necessarily and reasonably for the purpose of the Proceeding.

SWORN (OR AFFIRMED) before me at the (City/Town, etc.) of _____, in the Province of _____ on (date) _____.

Commissioner of Oaths

Signature of Affiant

_____

_____

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Appendix F Sample Completed Cost Forms

Superseded/Obsolete

EUB Alberta Energy and Utilities Board

SAMPLE FORM

Summary of Total Costs Claimed

Form E1 - Page 1 of 1

Date June 22, 2001

Intervener/Lawyer/Expert	Total Fees/Honoraria Claimed		Total Disbursements/ Expenses Claimed		Total GST claimed	Total Claimed
Bill Smith	A - from E3	$1,050.00	C - from E4	$505.45	$35.38	$1,590.83
June Wilmore		$1,050.00		$441.00	$30.87	$1,521.87
Trudy Frank		$1,250.00		$229.90	$16.09	$1,495.99
Morrin Engineering Co.	B - from E2	$15,470.00	D - from E4	$1,216.15	$1,168.03	$17,854.18
Albert & Co., Barristers & Solicitors		$14,290.00			$1,155.25	$15,445.25
Munson Engineering		$14,430.00			$1,039.50	$15,469.50
TOTAL		$47,540.00		$2,392.50	$3,445.12	$53,377.62

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Claimant Abraham Lake Coalition

Agent/Representative John Albert, Albert & Co., Barristers & Solicitors

Address 3000, 1234 - 5th Street SW, Calgary, AB T2Z 14R

Phone (403) 287-4555 Fax (403) 287-4666

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Applicant(s) ABC Energy Corp.

Application(s) No. 2003007, 2003008

Hearing Abraham Lake Energy Project

EUB Alberta Energy and Utilities Board

SAMPLE FORM

Summary of Professional Fees Claimed

Form E2 - Page 1 of 2

Date June 22, 2001

			PROFESSIONAL FEES								GST	Total
	Years of Experience	Hourly Wage	Preparation		Attendance		Argument & Reply		Total Fees		Total GST on Professional Fees	Fees & GST
			Hours	Fees	Hours	Fees	Hours	Fees	Hours	Fees		
FIRM/COMPANY NAME Morrin Engineering Co.												
Individual Name: Charles Morrin	22.0	$180.00	45.00	$8,100.00	12.00	$2,160.00	0.50	$90.00	57.50	$10,350.00	$724.50	$11,074.50
Individual Name: Greg Thompson	5.0	$80.00	52.00	$4,160.00	12.00	$960.00			64.00	$5,120.00	$358.40	$5,478.40
Individual Name												
Individual Name												
Individual Name												
Total This Company			97.00	$12,260.00	24.00	$3,120.00	0.50	$90.00	121.50	$15,470.00	$1,082.90	$16,552.90
FIRM/COMPANY NAME Albert & Co., Barristers & Solicitors												
Individual Name: John Albert	13.0	$250.00	24.00	$6,000.00	12.00	$3,000.00	1.00	$250.00	37.00	$9,250.00	$647.50	$9,897.50
Individual Name: Sally Park	3.0	$120.00	30.00	$3,600.00	12.00	$1,440.00			42.00	$5,040.00	$352.80	$5,392.80
Individual Name												
Individual Name												
Individual Name												
Total This Company			54.00	$9,600.00	24.00	$4,440.00	1.00	$250.00	79.00	$14,290.00	$1,000.30	$15,290.30

Claimant Abraham Lake Coalition

Hearing Abraham Lake Energy Project

Applicant(s) ABC Energy Corp.

Application(s) No. 2003007, 2003008

Superseded Obsolete

EUB Alberta Energy and Utilities Board

SAMPLE FORM

Summary of Professional Fees Claimed

Form E2 - Page 2 of 2

Date June 22, 2001

			PROFESSIONAL FEES								GST	Total
	Years of Experience	Hourly Wage	Preparation		Attendance		Argument & Reply		Total Fees		Total GST on Professional Fees	Fees & GST
			Hours	Fees	Hours	Fees	Hours	Fees	Hours	Fees		
FIRM/COMPANY NAME Munson Engineering												
Individual Name: Ken Munson	14.0	$255.00	34.00	$8,670.00	12.00	$3,060.00			46.00	$11,730.00	$821.10	$12,551.10
Individual Name: Sally Mayerthorpe	3.0	$90.00	25.00	$2,250.00					25.00	$2,250.00	$157.50	$2,407.50
Individual Name: Jim Edberg	10.0	$45.00	10.00	$450.00					10.00	$450.00	$31.50	$481.50
Individual Name												
Individual Name												
Total This Company			69.00	$11,370.00	12.00	$3,060.00			81.00	$14,430.00	$1,010.10	$15,440.10
FIRM/COMPANY NAME												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Individual Name												
Total This Company												
TOTAL PROFESSIONAL FEES CLAIMED			220.00	$33,230.00	60.00	$10,620.00	1.50	$340.00	281.50	$44,190.00	$3,093.30	$47,283.30

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Claimant Abraham Lake Coalition

Hearing Abraham Lake Energy Project

Applicant(s) ABC Energy Corp.

Application(s) No. 2003007, 2003008

EUB Alberta Energy and Utilities Board

Summary of Intervener Honoraria Claimed

SAMPLE FORM

Form E3 - Page 1 of 1

Date June 22, 2001

Intervener's/Group Name	Preparation Honoraria	Attendance Honoraria	Forming a Group	Total Honoraria Claimed
Bill Smith	$300.00	$500.00	$250.00	A - to E1 $1,050.00
June Wilmore	$300.00	$500.00	$250.00	$1,050.00
Trudy Frank	$500.00	$500.00	$250.00	$1,250.00
TOTAL	$1,100.00	$1,500.00	$750.00	$3,350.00

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Claimant Abraham Lake Coalition

Applicant(s) ABC Energy Corp.

Hearing Abraham Lake Energy Project

Application(s) No. 2003007, 2003008

EUB Alberta Energy and Utilities Board

Summary of Disbursements Claimed

SAMPLE FORM

Form E4 - Page 1 of 2

Date June 22, 2001

Disbursements Claimed (exclusive of GST)	Name of Claimant June Wilmore	Name of Claimant Trudy Frank	Name of Claimant Bill Smith	Name of Claimant	Total Disbursements
Airfare					
Accommodation (maximum $140/day + provincial hotel tax)					
Meals (maximum $40/day)	$35.00	$22.00	$37.50		$94.50
Mileage ($.30/km)	$90.00	$112.00	$107.50		$309.50
Taxi					
Parking					
Car rental					
Transcripts					
Postage	$22.00	$12.00	$27.75		$61.75
Courier/delivery					
Telephone/long distance	$112.00	$28.90	$129.43		$270.33
Fax ($1.00/page)					
Internal photocopying ($.10/copy)			$59.00		$59.00
External printing	$115.00		$17.27		$132.27
Miscellaneous (please attach details)	$22.00	$55.00	$127.00		$204.00
Miscellaneous (please attach details)	$45.00				$45.00
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
TOTAL DISBURSEMENTS	$441.00	$229.90	C - to E1 $505.45		$1,176.35
Total GST on Disbursements	$30.87	$16.09	$35.38		$82.34

SUPERSEDED/OBSOLETE

Claimant Abraham Lake Coalition

Applicant(s) ABC Energy Corp.

Hearing Abraham Lake Energy Project

Application(s) No. 2003007, 2003008

EUB Alberta Energy and Utilities Board

Summary of Disbursements Claimed

SAMPLE FORM

Form E4 - Page 2 of 2

Date June 22, 2001

Disbursements Claimed (exclusive of GST)	Name of Claimant Charles Morrin	Name of Claimant Greg Thompson	Name of Claimant	Name of Claimant	Total Disbursements
Airfare	$695.00				$695.00
Accommodation (maximum $140/day + provincial hotel tax)	$120.00				$120.00
Meals (maximum $40/day)	$37.50				$37.50
Mileage ($.30/km)					
Taxi					
Parking					
Car rental					
Transcripts					
Postage	$19.25	$45.90			$65.15
Courier/delivery		$75.00			$75.00
Telephone/long distance	$75.25	$105.25			$180.50
Fax ($1.00/page)	$8.00	$35.00			$43.00
Internal photocopying ($.10/copy)					
External printing					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
Miscellaneous (please attach details)					
TOTAL DISBURSEMENTS	$955.00	$261.15			D - to E1 $1,216.15
Total GST on Disbursements	$66.85	$18.28			$85.13

Superseded/Obsolete

Claimant Abraham Lake Coalition

Applicant(s) ABC Energy Corp.

Hearing Abraham Lake Energy Project

Application(s) No. 2003007, 2003008

APPENDIX A SUMMARY OF COSTS CLAIMED AND AWARDED

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